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ROYAL COMMISSION

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ROYAL COMMISSION ON TAXATION

Hearing held in the Centre
Court Room, Exchequer Court
of Canada, Supreme Court Build-
ing, Wellington Street, Ottawa,
on Friday, the 18th day of
October, 1963.

COMMISSION:

MR. KENNETH LeM. CARTER -- Chairman

MR. J. HARVEY PERRY

MR. A. EMILE BEAUVAIS

MR. DONALD G. GRANT

MRS. S.M. MILNE

MR. CHARLES WALLS

LEGAL ADVISER:

MR. J.L. STEWART, Q.C.

RESEARCH DIRECTOR:

PROF. D.G. HARTLE

SECRETARY:

MR. G.L. BENNETT

* * * * *



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Ottawa, Ontario
Friday
October 18th, 1963

4250

MR/RPS 1

2 ---ON COMMENCING AT 9:30 A.M.

3

4 THE CHAIRMAN: We are ready to start Mr.
5 Secretary.

6 THE SECRETARY: Thank you, Mr. Chairman and
7 Commissioners, this morning we have before you the
8 Council of the Forest Industries of British Columbia.
9 This submission was received on August 30th. Mr.
10 B.M. Hoffmeister, president of the Council is here,
11 together with his colleagues.

12 He will say a few words in introducing the
13 brief and he will also introduce his colleagues he
14 has with him.

15 I would like to enter this brief into the
16 record as Exhibit 229.

17

18 ---EXHIBIT NO. 229: Submission on the Council
19 of the Forest Industries
20 of British Columbia.

21

22 SUBMISSION OF

23 THE FOREST INDUSTRIES OF BRITISH COLUMBIA

24

25 Appearances: B.M. Hoffmeister R. Tolmie
26 C.G. Chambers I. Mahood
27 Alex G. Rankin George J.C. Hodson

28 THE CHAIRMAN: Thank you Mr. Secretary and
29 good morning Mr. Hoffmeister, gentlemen. Before start-
30 ing it is my pleasure to introduce to you this Commission.
The names are all before us. I don't need to read them



A2 1 out but I would be very grateful if you, on your part,
2 would introduce your associates to us.

3 I do not think there is much more to tell
4 us about your Association. If you care to add anything,
5 we would be very glad to hear it.

6 Sometimes we use our counsel, Mr. Stewart,
7 in matters. It depends upon the complexity. In this
8 case I thought it would be a useful thing to do, seeing
9 as there are not many coming from the Forest Industry
10 in British Columbia or elsewhere and we have got to
11 learn a good deal about it quickly. It has been our
12 experience that the inquiry is more thoroughly conducted
13 with the help of Mr. Stewart and with ourselves asking
14 questions so if you do not mind, we are going to ask
15 Mr. Stewart to deal the questions but that does not
16 in any way exclude us. We will keep getting in on the
17 act too.

18 We will be glad to hear anything you have
19 to say Mr. Hoffmeister.

20 MR. HOFFMEISTER: Thank you Mr. Chairman,
21 Commissioners. We appreciate the opportunity of appear-
22 ing before the Commission this morning and to present
23 the views of the Forest Industry of British Columbia.
24 We also are most appreciative of the Commission's
25 scheduling of our appearance sufficiently early this
26 month to enable some of us to get off to the United
27 Kingdom next week on a trade mission involving the
28 Forest Industry of British Columbia.

29 I would like at this time to introduce
30 my colleagues if I may, Mr. Chairman. Starting on the



A3 1 right, Mr. Charles Chambers, treasurer of the MacMillan,
2 Bloedel & Powell River Limited. Mr. Ross Tolmie,
3 our solicitor. Mr. Ian Mahood, on my immediate left,
4 vice-president of the Council of Forest Industries,
5 and I might also add that Mr. Mahood is a partner in
6 a small logging operation in British Columbia and
7 indeed represents the smaller operators.

8 Mr. Alex Rankin, vice-president,
9 British Columbia Forest Products, Mr. George Hodson,
10 vice-president, Crown Zellerbach Industry.

11 Mr. Chairman, these gentlemen are all
12 members of the joint industry committee on taxation
13 and my object in inviting them to accompany me this
14 morning is in the interests of providing the most
15 complete answers we can to any questions that may be
16 asked because these gentlemen are dealing with
17 financial matters and matters of taxation every day
18 in the course of their business.

19 I don't think I have anything further
20 to add respecting the brief, which I understand is
21 being taken as read.

22 THE CHAIRMAN: Not taken as, We have
23 all read it.

24 MR. HOFFMEISTER: I am sorry, an unfortunate
25 choice of words. On page 2 our member associations
26 are listed. We appear specifically on their behalf
27 but as mentioned immediately thereafter, we are
28 joined by the Truck Loggers Association, the Interior
29 Lumber Manufacturers Association, the Northern
30 Interior Lumbermen's Association so that we can say,



A4 1 without fear of contradiction, that we do represent
2 all the forest industry of British Columbia, particularly
3 the major associations.

4 I think that is all sir. We are ready
5 to proceed.

6 THE CHAIRMAN: Thank you Mr. Hoffmeister.
7 We endeavour to conduct these matters as informally
8 as in keeping with proper, orderly method of proceeding.
9 Nobody need stand unless they wish to do so.

10 We have read this, as I have already
11 indicated, with a great deal of interest and have some
12 questions to put to you ourselves. In the meantime,
13 I think Mr. Stewart may have a great many questions.
14 Mr. Stewart, will you proceed?

15 MR. STEWART: Thank you Mr. Chairman.
16 Gentlemen, these questions of mine will be basically
17 of a tax structure nature but I think it might be
18 well before I get into questions of that type to refer,
19 for purposes of the record, to the fact that it appears
20 from page 2 of your brief, as Mr. Hoffmeister has
21 already indicated, that your Association is represent-
22 ative of the forest industry of British Columbia as
23 a whole and that the forest industry of Canada is of
24 great importance to this country and to British
25 Columbia and I refer in that connection to pages
26 5 and 6 of your brief and in particular paragraphs
27 1.1 to 1.5. On pages 11 and 12 of the brief, and in
28 particular paragraphs 2.1 to 2.9.

29 You have also indicated that this is
30 a capital intensive industry and that is brought out



1 on pages 14 to 16 in paragraphs 2.14 to 2.16 and you
2 have also emphasized on pages 6 to 7, in paragraphs
3 1.6 to 1.9 that the industry must compete in world
4 markets and that the competition in those markets
5 is very keen.

6 Now looking at page 7, you then go on to
7 suggest, in paragraph 1.10 that since 1954 the industry,
8 or parts of it at any rate, have been having heavy
9 going and I would like to take a moment on that point
10 before getting on to tax structure and ask you to
11 comment on this, taking the period from 1953 or 1954.
12 Would it be the case that the industry, so far as
13 earnings are concerned, had a couple of bad years
14 in 1957 and 1958 but that apart from those years the
15 trend of earnings and cash flow has been reasonably
16 favourable?

17 MR. HOFFMEISTER: Yes, I think that is a
18 fair statement. That has been the case in 1961 and
19 1962 and the markets this year have been active and
20 there is every indication that they are reacting
21 favourably to our promotion efforts, and efforts
22 generally to participate more extensively in the
23 markets in which we have traditionally been trading
24 and also in new markets where we have been putting
25 forth extraordinary efforts to gain entry.

26 MR. STEWART: And so far as 1957 and 1958
27 are concerned, were there two basic factors that
28 combined to make them relatively unfavourable years,
29 and I have in mind as suggestions to you in this
30 connection first a drop or a cessation in growth of



A6 1 demand generally; and, secondly, and increase in
2 capacity which resulted from expansion in the mid
3 '50's?

4 MR. HOFFMEISTER: There is one thing
5 I would like to point out here, that while the two
6 years you have mentioned are low years, this is a
7 trend and has been a trend, as our Exhibit C-1 illustrates,
8 and not just confined to the two years you mentioned.

9 The reasons for this trend, I think would
10 include the fact that we have had to resort to extra-
11 ordinary measures to be competitive in these markets.
12 There has been a demand but in order to sell our lumber
13 we have had to be competitive, with the result our
14 prices were low, at the same time our cost of raw
15 materials and other operating costs, including wages,
16 supplies, taxes, and so on, continued to rise and we
17 were rather caught in the bind with increases in cost
18 and generally lower seller prices.

19 THE CHAIRMAN: Is Mr. Hoffmeister speaking
20 only of saw mills or of the entire industry?

21 MR. HOFFMEISTER: Saw mills only :
22 at this particular point, as covered in Exhibit C-1
23 and also, for example, during the last year, 1962,
24 which was considered to be an active year in the saw
25 mill business, I think I am right in saying that we
26 had between 175 and 200 saw mills shut down in
27 British Columbia for various reasons.

28 MR. STEWART: Well Mr. Hoffmeister I
29 observe, looking at Exhibit C-1, that there you are
30 dealing with earnings in relation to total assets of the



A71 companies concerned, and of course you point out at the
2 bottom of the page that during the period in question
3 the total assets increased very materially from
4 \$474,000,000 to \$822,000,000.

5 Now have you any figures for these
6 particular companies, and for this particular period
7 which relate to earnings per share or cash flow per
8 share or dividends paid?

9 MR. HOFFMEISTER: Mr. Mahood, on my left,
10 is the author of this Exhibit and I would like to call
11 on him to answer your last question.

12 MR. MAHOOD: Those figures are available
13 sir. We do not have them at our disposal at this
14 moment. We will be glad to provide them.

15 MR. STEWART: Thank you very much.

16 THE CHAIRMAN: How about net assets?
17 Could we ask Mr. Mahood?

18 MR. MAHOOD: These are net assets that are
A2 19 quoted.

20 THE CHAIRMAN: It says total?

21 MR. MAHOOD: Yes. Well that is incorrect.
22 That is net assets is the figure.

23 THE CHAIRMAN: Debt is deducted?

24 MR. MAHOOD: No, debt is not deducted.
25 When I said net, I mean depreciated value.

26 THE CHAIRMAN: That was my opinion. In
27 saying net assets, I mean after deduction of debt?

28 MR. MAHOOD: No, that is not so. In that
29 particular exhibit it relates just to saw mills. A
30 little earlier I think the question was pointed out this



1 did apply to saw mills. The same trend is in evidence
2 for other sectors of the industry, pulp, plywood.

3 THE CHAIRMAN: I would assume with the
4 acquisition of \$822,000,00 the debt would have increased.
5 Would that be correct?

6 MR. MAHOOD: I would presume so, yes.

7 MR. STEWART: Well now when you talk about
8 the same trend in other branches of the industry, I
9 would like to show you, and get your opinion on these
10 figures which relate simply to the years 1956 to 1962
11 and they relate to a cross-section of the industry,
12 and you may, of course, wish to comment on the cross-
13 section as well but these figures relate to two groups
14 of companies within the industry, one which is
15 described, for this purpose, as the newsprint group
16 and consists of nine companies: Abitibi, Consolidated
17 Paper, Crown Zellerbach, Dominion Tar, Great Lakes,
18 M. & O., MacMillan-Bloedel, McLaren "A" & "B" and
19 Price Bros. The second group is known as the specialty
20 papers group and consists of six companies:
21 Bathurst "A" & "B", B.C. Forest Products, Columbia
22 Cellulose, Fraser, Hinde & Dauch and Westminster. These
23 two groups, for present purposes, are taken as the
24 paper group and I have here, I am sorry I have only one
25 copy, figures representing earnings per share of the
26 paper group as a whole and then of the newsprint group
27 I have mentioned and specialty group I have mentioned
28 for each of the years 1956 to 1962 and then I have
29 figures representing the cash flow per share for each
30 of the three classifications and these figures relate



A91 simply to 1956 to 1961, and dividend per share.

2 Would you mind looking at those figures
3 and letting me have any comments you wish to make. The
4 observation that I make on looking at the figures would
5 be this: that earnings, cash flow and dividends did
6 drop in either or both of 1957 and 1958 below the
7 1956 level but that since 1958 there has been a
8 considerable and fairly steady recovery and that
9 taking the paper group as a whole, earnings, cash flow
10 and dividends in the last year mentioned here were
11 above the 1956 level.

12 MR. HOFFMEISTER: I would like at this
13 point Mr. Chairman to hand this to Mr. Rankin, vice-
14 president of British Columbia Forest Products for
15 comments since his company is not only in the newsprint
16 business, but also manufacturing pulp and lumber,
17 plywood and a full range of forest products.

18 Prior, or while I am doing that, I would
19 like to point out that in British Columbia the forest
20 industry consists not only of half a dozen integrated
21 companies but a great number of smaller companies,
22 particularly saw mills in the interior of British
23 Columbia. The lumber cut in British Columbia in 1962
24 was approximately seven billion feet. Of that
25 seven billion feet just slightly more than half was
26 manufactured by mills in the interior, practically
27 all of which are small mills numbering in total
28 somewhere between 14 and 16 hundred.



/PB/RP

So that when one considers the position of the companies to which you have just referred in your remarks these cover but a small, but a part only of the forest industry in British Columbia. The total log scale, for example, representing logs consumed by all branches of the forest industry in British Columbia in 1962, I think, was just around eight billion feet and of that lumber accounted for around six to seven million feet, so that lumber is a very important segment of the forest industry in British Columbia and of the lumber group more than half of the production is contributed by small operations.

MR. STEWART: Mr. Chairman, it occurs to me these gentlemen might prefer to deal with the figures that were just handed them in writing rather than verbally at the moment, which I imagine would be perfectly satisfactory to the Commission.

THE CHAIRMAN: Indeed. Would you prefer that?

MR. RANKIN: Mr. Chairman, I would prefer to try and answer it now if you don't mind. I am just seeing the figures for the first time in this form.

THE CHAIRMAN: You may have a few shots at it.

MR. RANKIN: Might I say in the forest industry we face this problem, as Mr. Hoffmeister pointed out, that in British Columbia the industry has been basically a saw milling industry. We are just about at the point where we are switching we are switching to pulp and paper. When we are talking



B2 1 about the industry in British Columbia we have
2 to differentiate between those companies which are
3 not fully integrated and those that are fully integ-
4 rated.

5 In answer to Mr. Stewart, in the saw
6 milling business, for the moment, to begin with, because
7 this is the backbone of the industry in British
8 Columbia, in the immediate post-war we had a rising
9 demand for lumber and world prices were spiralling
10 upward and it was simply a race between spiralling
11 costs and spiralling prices, so that our profits
12 in the lumber industry rose steadily through to 1955.
13 About 1955 you have you cost still continuing to
14 spiral, but your world prices are levelled off, so
15 from 1955 to 1960 your earnings in saw milling came
16 down because your prices were remaining firm in 1955
17 to 1960 but the costs were going up. Since 1959 we
18 have had a significant price drop. We have had a
19 collapse in the world price. Our market price from
20 1961 to 1962 was as much as 20 to 25 per cent lower
21 than they were in 1955. As far as saw milling is
22 concerned the rates of return just about went to --
23 I think you have some figures that indicate one to
24 two per cent. This was serious in saw milling.
25 Concurrent with this you have the growth of pulp
26 and paper, growth of chipping and the saw mills that
27 were able to chip their waste and turn it into an
28 economical product, saleable to pulp and paper,
29 were able to stay in business.

30 Could I say one more thing on saw



B3 1 milling, it possibly is the best example of pure supply
2 and demand. If your lumber prices go on tomorrow you
3 can have 15 new companies next week because saw milling
4 is something you can go out of very quickly. You have a
5 great number of purchasers and a great world demand so
6 that no one person can influence the saw milling business.
7 They are in and out of business continually. As far
8 as saw milling is concerned world prices dropped drastic-
9 ally through to 1962. I think the low point was reached
10 in 1962.

11 Coming to pulp, pulp prices have fallen
12 steadily. I must confess my experience in pulp and
13 paper is limited. We entered the pulp field in 1958.
14 We entered the pulp market. I am talking about market
15 pulp which is a major product in British Columbia,
16 a major product of Canada. Pulp prices fell from about
17 \$150 a ton down to about \$131 reaching a very low point
18 in the fall of 1962. In that period you had increasing
19 costs, of course. You had your labour rates going up
20 and you had other costs increasing including, particularly,
21 provincial taxation.

22 Newsprint, the prices remained remarkably
23 steady until 1962. Newsprint, I believe, has been
24 steady since 1957. Am I correct? Mr. Chambers could
25 tell you. Newsprint -- we are not in the newsprint
26 business. We will be next year because newsprint has
27 been very firm until last year with the price still
28 firm, but the industry is now giving, if you like,
29 a discount, now paying drayage, delivery cost from the
30 port to the customer's plant. I give you that as the



B4 1 price structure that we are working under. I would not
2 agree, if I may, with Mr. Stewart on the thought there
3 was just two bad years. On the West Coast from 1955
4 through to 1962 earnings were declining, other things
5 being equal. The figures you have shown me here, I
6 wonder which ones to address first -- earnings per share
7 are most significant. We are looking at figures on
8 paper, 1956 through to 1962, earnings per share. I take
9 it that this is the group of companies that remained,
10 Mr. Stewart?

11 MR. STEWART: These are the composite figures,
12 as I understand it, composite figures for the 15 companies
13 that are named. If you take the paper group, and then
14 in the newsprint there are the first nine companies, and
15 then specialty paper group are the next six.

16 MR. RANKIN: I would look at newsprint for
17 the moment. That has been a fairly steady price. It
18 was in 1956 earning \$7.58, and that fell to a low point
19 in 1958 of \$5.05 and that rose slightly but steadily
20 through to 1961 at \$6.35 and then in 1962 took a big jump
21 to \$7.61. Of course the big jump is simply your
22 exchange.

23 THE CHAIRMAN: What is the date of that?

24 MR. RANKIN: The exchange changed in 1962,
25 the big change, in May, 1962.

26 COMMISSIONER BEAUVAIS: 1961, June 1961.

27 THE CHAIRMAN: Whether it is June or May
28 doesn't matter, but whether it is '62 or '61.

29 MR. RANKIN: May, 1961. You see here
30 earnings in newsprint in 1961, \$6.35 and 1962 \$7.61, an



B51 increase of \$1.26. I would say probably this is almost
2 entirely due to the exchange, so that earnings in 1956,
3 going back pre-exchange were \$7.58 at this time. You
4 had a discount on your Canadian pulp in 1956 of about
5 10 per cent.

6 COMMISSIONER PERRY: A premium.

7 MR. RANKIN: A premium. We were making
8 \$7.58 despite the fact that your principal market being the
9 U. S. market -- you are getting a 90 cent dollar,
10 making \$7.58. Now you come to 1961 and make \$6.35. I
11 think this agrees with my statement that the price of
12 newsprint has been relatively stable and that just now
13 it declines and your cost always tends to be slightly
14 upward, but I think what demonstrates that big jump,
15 1961 to 1962 is simply the exchange.

16 Coming now to papers and specialty papers.
17 I am completely out of my field. MacMillan Bloedel are
18 the only ones in this field in British Columbia. I
19 guess Westminster Paper is one. They are specialty
20 paper. I am sorry. You are in that. I would have
21 to disqualify myself. I would say these figures indicate
22 the same trend as I pointed out in newsprint earnings,
23 falling from 1956 through to 1961, 1958 being the
24 poorest year, and then a slight up turn from 1958 to
25 1961. That up turn is probably new acquisitions. I
26 don't know, increase in that period -- you certainly
27 have pulp price falling. Paper prices I don't know.
28 Would you like to address yourself to that, Mr.
29 Hodson?

30 MR. HODSON: I would like to make a comment



B61 in this area which may come a little close to what Mr.
2 Stewart has in mind. You might be interested in the
3 consolidated figures of the three companies represented
4 here. Their experience has been, perhaps, somewhat
5 along the same lines as these statistics except that
6 these are integrated, and these figures will not be
7 broken down between the product groups, newsprint,
B28 speciality papers.

9 MR. STEWART: Excuse me, when you say
10 three companies represented here, in this connection
11 you are referring to Crown Zellerbach, to B.C. Forest
12 Products and MacMillan Bloedel.

13 MR. HODSON: Yes, these might come close to
14 giving you a trend of size of profits. I am afraid
15 I haven't got figures per share. This would probably
16 have a bearing on your comments if the earnings per
17 share were low in two years. I think this goes further
18 than that.

19 MR. STEWART: Yes.

20 MR. HODSON: The consolidated net profits
21 of these three which are the three bigger integrated
22 companies of the west, 40.6 million, that was 1956 -- using
23 that ~~as the~~ basis which coincides with your quote,
24 1957 the consolidated profits were lower by 17.7 million.
25 That shows your 1957 drop in total of profit.

26 THE CHAIRMAN: There were 23 million?

27 MR. HODSON: 17.7 million less than 40.68.

28 COMMISSIONER BEAUVAIS: There was a strike?

29 MR. BEAUVAIS: There was a strike in 1957,
30 you are correct, sir. In 1958 the profits reduced as against



B7 1 that base period, by 18.5 million. Continuing to
2 1959 the consolidated profits in 1959 were still lower
3 than the base of 1956 by five million nine.
4 Continuing to 1960 the consolidated profits were lower
5 than the base by three million eight. For these
6 three companies taken as a group, in 1961 they were
7 very close to breaking even with the 1956 base. We
8 were lower by \$400,000. It wasn't until 1962 that the
9 profit, consolidated profit experienced was higher than
10 the 1956 base. In that year it increased by 13 million
11 four which as Alex, Mr. Rankin, said was particularly
12 responsible for by the U.S. exchange, so that the
13 experience, the profit experience in this group of
14 companies taken from the annual reports indicated that
15 it wasn't just the two years that the profits were
16 lower. They gradually, the lower profit diminished
17 but took five years to come back, 1962. I think the
18 other interesting point is that in this period which
19 finally culminated in an increase in profits in 1962,
20 over that six-year period these companies put in
21 about \$280 million dollars additional fixed assets
22 which didn't then show a return on that increase until
23 1962.

24 COMMISSIONER BEAUVAIS: Depreciation was
25 very straight in the two years on the new capital
26 improvements.

27 MR. HODSON: On a tax basis, yes. I don't
28 know if that helps?

29 MR. STEWART: I think that is very helpful,
30 Mr. Hodson. As far as 1963 is concerned dealing with



B8 1 the three companies, or with the industry as a whole,
2 would it be reasonable to anticipate that the improvement
3 which was evident, let us say, in 1962 will continue.

4 MR. HODSON: I think our comment in our
5 quarterly releases of the annual report -- I think I
6 could quote our president, he says, and I believe, this
7 is if conditions remain as they are at the present
8 time the profits would approximate the 1962 profits,
9 perhaps a little bit lower.

10 MR. RANKIN: I would comment that ours was
11 a little different. We are going to see much better
12 earnings in 1963 than 1962. The nature of our business
13 is slightly different from Crown Zellerbach. Pulp
14 and paper has been strong throughout in 1963. We have
15 had four price increases in 1963. We are doing much
16 better. May I just say -- we are talking about
17 declining earnings, not that the earnings are depressed
18 or anything like that. It is cyclical and certainly
19 the high return that this industry used to have and
20 that it attracted the original capital are not there
21 today. It is world competitive, increasing cost --
22 the very competitive nature of our business is such
23 that the rate of return has now been dropped way down
24 depending on the cyclical swing. This used to be
25 considered a straight rate of return industry going
26 back 10 or 15 years. I am not saying it a depressed
27 industry, Mr. Chairman.

28 MR. STEWART: I think it is perhaps the
29 case, if you look at the stock market reactions, current
30 stock market reactions to these companies, or, perhaps,



B9 1 reaction is the wrong word -- stock market assessment
2 of these companies, that the prospects in the future --
3 the prospects for the future look somewhat bright.
4 I observed for example -- I don't suggest for a moment
5 that the stock market prices are necessary an accurate
6 barometer, but I observed that MacMillan and Bloedel is sel-
7 ling at the moment at substantially higher prices that at any
8 time since the most recent amalgamation and that in the
9 case of B.C. Forest Products the stock is certainly
10 selling at a higher price than it has in the last 10
11 years. It would perhaps indicate that the market
12 anticipates that earnings of those companies, at any
13 rate, will be somewhat higher than in 1962. Would you
14 care to comment on that?

15 MR. HOFFMEISTER: Mr. Chambers, you are
16 MacMillan Bloedel?

17 MR. CHAMBERS: Mr. Chairman, with regard to
18 the earnings in 1963 our recorded earnings to date have
19 been lower than in 1962. We are not given to predictions,
20 but I think that this is quite substantially lower than
21 1962. We may pick up some because of the price increase
22 to which reference has been made.

23 THE CHAIRMAN: Cost increase?

24 MR. CHAMBERS: Price increase, this will
25 assist. I have just one comment, that the 1961 figures
26 that were mentioned here are also affected by the
27 exchange because the exchange switch happened in the
28 early part of the year, and depending upon whether a
29 company hedged this exchange or was going over
30 would affect that year, some more than others. The stock



B101 market quotes, they are many factors, I think at the
2 moment, other than earnings that may be affecting
3 our stock market currently. We have been through quite
4 a change in management, big merger and so forth and
5 so on. It is just possible that this had quite an
6 affect on these people judging these matters and setting
7 the price.

8 I would say there is one thing I do notice,
9 that is on the categories that Mr. Stewart handed out
10 here that R.P.C.F. Papers are quoted as in the
11 specialty paper business in those years and as yet it
12 has not been contemplated.

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MR/RPS 1

2 And Bloedel is quoted as being newsprint
3 company. It is true we do produce newsprint but when
4 you consider that we produce something like 700 million
5 feet of lumber, about 350 million feet of plywood and
6 varying amount of doors and shingles commensurate with
7 those figures, as well as a considerable amount of
8 pulp, altogether 300,000 tons of pulp and about 650,000
9 tons of newsprint, this is pretty incorrect.
10 I do not think you can call such a company a newsprint
11 company. You have got to call it a forest industry
12 company. Now to categorize us with newsprint business
13 is probably a mistake.

14 MR. HOFFMEISTER: Mr. Chairman, just to
15 make a few comments with respect to Mr. Stewart's
16 recent remarks, several of us pointed out that saw
17 milling is the backbone of the forest industry in
18 British Columbia and in this respect while it is true
19 that the market has been active, and there has been
20 an improvement in price, I think we should not lose
21 sight of the fact that at this precise moment there are
22 more than 50 bills before the United States administration
23 all designed to restrict the entry of Canadian lumber
24 into the United States market.

25 Now the United States is by far the most
26 important market the industry has for its lumber. Some
27 of the mills in the interior ship one hundred per cent
28 of their production to the United States and the mills
29 on the coast a lesser proportion of their production for
30 the reason that they have access, ready access to other
overseas markets.



C2 1 My mind goes back to 1932 when suddenly
2 the United States Government imposed a tariff of I
3 think around \$3.50 on lumber which at that time had
4 an F.O.B. mill value of about \$17 per thousand. The
5 U.S. market was at that time our most important market
6 and overnight our saw mills were shut down. Now one
7 hopes that will not happen again but there is a very
8 serious threat to our saw milling business at this
9 particular time in our most important market, namely,
10 the United States.

11 MR. STEWART: Mr. Chairman, I wonder if an
12 appropriate course might be to transfer to one piece
13 of paper these figures with regard to earnings per
14 share, cash flow per share and dividends per share,
15 which I have shown these gentlemen, also indicate on
16 that piece of paper the names of the companies which
17 were included within the particular groups, file that
18 piece of paper as an exhibit and send copies to Mr.
19 Hoffmeister so that if they have any further comments,
20 they can make them?

21 MR. HOFFMEISTER: We will be very pleased
22 to do that Mr. Chairman.

23 THE CHAIRMAN: Thank you. Are you, Mr.
24 Stewart, discussing the effect of the diminished value
25 of the Canadian dollar on the earnings for those
26 companies at this time?

27 MR. STEWART: Well Mr. Chairman I could do
28 it now, in this sense that during the period we have
29 been talking about there has been a decrease in the
30 external value of the Canadian dollar amounting, I suppose,



C3 1 to something like 14 per cent. Now could I ask you
2 to indicate what effects that has had on the pricing
3 policies of your industry?

4 Have you in fact been able to reduce the
5 price in foreign markets, or have you basically maintained
6 the prices having regard to the earnings trend which
7 we have been talking about?

8 MR. HOFFMEISTER: Basically our prices
9 have been maintained. We do not set world prices by
10 a number of these commodities, and it is true that
11 the valuation of the Canadian dollar has had an effect
12 on our earnings and it certainly has improved our
13 competitive position.

14 THE CHAIRMAN: Would it be an exaggeration
15 to say that with the diminution of the Canadian dollar
16 you would have or the newsprint companies would have
17 lost money? 14 per cent applied to a company's gross
18 is a huge sum in relation to its net, and I would think
19 that it would be sufficient to wipe out the net?

20 MR. HOFFMEISTER: Earnings would certainly
21 have been reduced drastically Mr. Chairman.

22 MR. STEWART: Was that the point you wished
23 to make?

24 THE CHAIRMAN: That's about it, yes.

25 MR. STEWART: Now gentlemen coming to
26 tax structure questions, you indicate on page 13 of
27 your brief, I think, and I have reference to paragraph
28 II.13 that you regard the recent sales tax changes as
29 of great importance to your industry. Do I take it
30 from the brief as a whole that the points which concern



C4 1 you in this regard are the removal of the exemption
2 on production machinery, the related removal of the
3 exemption on logging machinery under tariff item
4 411(a) the removal of the exemption on certain materials
5 expended in production and the removal of the exemption
6 on building materials?

7 Are those the important items that concern
8 you?

9 MR. HOFFMEISTER: Yes, they all concern
10 us very greatly.

11 MR. STEWART: Are there any other of the
12 sales tax changes recently introduced which are of
13 important effect, so far as your industry are concerned?

14 COMMISSIONER WALLS: You did have a special
15 concession on logging equipment which would also cancel,
16 at the same time, this machinery of production?

17 MR. HOFFMEISTER: That is right.

18 COMMISSIONER WALLS: Separate and distinct
19 from that?

20 MR. HOFFMEISTER: Yes.

21 MR. MAHOOD: These are some legislative
22 changes which included such things as tires and diesel
23 fuel, and so on, which are of considerable impact.

24 Just to go back sir, basically we are
25 not concerned with the building materials tax because
26 we regard this as a consumer tax which our industry
27 does not in itself pay. We are concerned with these
28 taxes which are built into the cost of production
29 and therefore affect our export.

30 MR. STEWART: Now you have indicated on



C5 1 pages 26 and 27 of your brief that you would like
2 certain of these changes to be reversed. In paragraph
3 V.2 you ask for the elimination of the Federal Sales
4 Tax on machinery, installations, and in paragraph V.5
5 you ask for the elimination of the tax on tools and
6 supplies used in production.

7 Could you tell us whether, or could you
8 give us an estimate as to how much is involved so far
9 as your industry in British Columbia is concerned as
10 a result of these 1963 changes?

11 MR. MAHOOD: I haven't got it broken down
12 for British Columbia, alone. We have attempted to
13 estimate, as far as the forest industry in Canada is
14 concerned if our recommendations were applied to
15 Canada.

16 MR. STEWART: I think these figures would
17 be very helpful.

18 MR. MAHOOD: And these items which we
19 are talking about amount to -- just have to interpolate
20 here -- about \$89,000,000.

21 COMMISSIONER WALLS: Could I interrupt?
22 Is that figure based on the entire addition of the
23 11 per cent or only on the current one, four per cent?

24 MR. MAHOOD: That is the entire 11 per cent.

25 THE CHAIRMAN: This is recommendation one
26 and two is it?

27 MR. MAHOOD: I may have misunderstood the
28 question here.

29 MR. STEWART: I think the question, Mr.
30 Chairman, was broader than that. It related to all the



C6 1 sales tax changes which were made this year and the
2 figure which is given, as I understand it, assumed that
3 we are a couple of years ahead and the effective rate
4 is 11 per cent and the figure relates to the industry
5 as a whole in Canada.

6 MR. MAHOOD: This excludes anything with
7 respect to building materials. In the estimate we have
8 made the tax on tools and machinery, this might be
9 called machinery and apparatus, is costing \$24 million
10 dollars, machinery and equipment is \$50 million and
11 on other sectors of construction, which includes the
12 building materials which our industry uses in establish-
13 ing a plant, and so on, is another \$5 million.

14 The sum of those is what I think in general
15 terms 11 per cent tax is costing.

16 MR. STEWART: Then you make the recommend-
17 ation that the tax on production machinery be eliminated.
18 Is this something that you are putting to us as regards
19 the forest industry or as regards industry generally?

20 MR. MAHOOD: We have looked at it only in
21 respect to the forest industry.

22 THE CHAIRMAN: But your estimate applies ---

23 MR. MAHOOD: To the Canadian industry,
24 yes. The forest industry across Canada.

25 THE CHAIRMAN: The forest industry across
26 Canada?

27 MR. MAHOOD: Yes, I am sorry sir.

28 MR. STEWART: I don't know that I made
29 my question plain. I appreciate that your figures
30 relate to the forest industry across Canada but when



C7 1 you asked to have the tax on production machinery
2 removed, are you suggesting that the forest industry
3 be treated differently from other industry or are you
4 suggesting, in other words, that the tax be removed
5 as regards your particular industry or as regards
6 industry as a whole?

7 MR. HOFFMEISTER: Our case is being built
8 around the forest industry in that connection,
9 Mr. Chairman, Mr. Stewart, for the principal reason
10 that we are an export industry and this does not
11 apply to the same extent to other industries in Canada
12 and we feel that an exception could and should be
13 made in the case of the forest industry by developing
14 our interest in export without which we cannot live.

15 THE CHAIRMAN: If some means were found
16 of providing an exemption in respect to exports, your
17 complaints would be taken care of?

18 MR. HOFFMEISTER: Yes. We tried to
19 establish that in our brief.

20 COMMISSIONER WALLS: I presume this would
C2 21 apply also to all industries who are predominately
22 in the export field, as well as the logging industry?

23 MR. HOFFMEISTER: Yes sir.

24 COMMISSIONER WALLS: Would you care to
25 state, as to the revenue required, what alternative
26 tax would replace that? Would you add to the corporation
27 tax? The income tax?

28 MR. HOFFMEISTER: In our brief we have
29 suggested that it should be distributed, the loss in
30 revenue should be distributed by making this tax a



1 consumer tax rather than applying to a particular
2 segment of industry.

3 COMMISSIONER WALLS: You mean move the
4 sales tax forward?

5 MR. HOFFMEISTER: That is right. Make
6 it a consumer tax spread broader over the consumer
7 market.

8 COMMISSIONER WALLS: Are many of your
9 concerns not both manufacturing and selling on the
10 retail level?

11 MR. HOFFMEISTER: I think a number of
12 them do sell at retail but only insofar as lumber
13 and plywood, shingles are concerned. Certainly not
14 as far as other major items go.

15 THE CHAIRMAN: Mr. Stewart, I don't know
16 whether this anticipates you, but would it be interest-
17 ing to find out what reduction in corporation tax would
18 be the equivalent of this alleged item of export.
19 If corporation taxes were reduced sufficiently at the
20 present time, that would compensate for these sales
21 taxes, would that not be correct?

22 MR. HOFFMEISTER: No. Our objection to the
23 sales tax is it is not related to ability to pay. It
24 hits our industry very badly and as we point out in
25 some sections of the brief, unfortunately, in the
26 case of logging the more difficult the terrain and
27 the lower the recovery respecting quality of product,
28 the greater penalty has to be paid by the imposition
29 of sales tax and tax on capital generally and we feel
30 this is indeed a burden and we would like to see it



C9 1 removed.

2 MR. STEWART: When you refer, in paragraph
3 V.7 on page 27 to the fact that you consider it
4 appropriate that the sales tax be re-aligned so as to
5 be clearly a consumer tax, what you have in mind is
6 what you have indicated to Mr. Walls, namely, that the
7 tax be moved from the manufacturer's level to some other
8 level. Is that right?

9 MR. HOFFMEISTER: Yes. Sales tax on
10 services, and that sort of thing that applies down to
11 the consumer level.

12 THE CHAIRMAN: Another level without
13 exemption would not do it because you suffer from
14 retail sales tax in your province?

15 MR. HOFFMEISTER: Yes, we do.

16 MR. STEWART: Your basic point here,
17 substantial portion of your production is sold in the
18 export market?

19 MR. HOFFMEISTER: That is right.

20 MR. STEWART: And that if this sales tax
21 is imposed at the retail level, then what you sell on
22 the export market will not be subject to that tax
23 at all?

24 MR. HOFFMEISTER: That is right. That
25 is precisely it.

26 COMMISSIONER PERRY: At the same time you
27 are not exempt on machinery equipment under the sales
28 tax in your own province?

29 MR. HOFFMEISTER: That is correct.

30 THE CHAIRMAN: But they are on exports?



C101 MR. MAHOOD: No, but there is a very
2 difficult pyramiding there as you notice.

3 COMMISSIONER WALLS: Wouldn't you become
4 the consumer of the machinery of production and
5 in effect have to pay a sales tax on it if it were
6 moved forward to the consumer level?.

7 COMMISSIONER PERRY: Without a specific
8 exemption.

9 COMMISSIONER WALLS: That is right.

10 MR. MAHOOD: That exemption existed prev-
11 iously.

12 THE CHAIRMAN: It does not really matter
13 what the level is as long as an exemption can be
14 devised for the purpose of export?

15 MR. HOFFMEISTER: Yes. Our principal
16 concern there Mr. Chairman is to keep competitive
17 in our export market, and at the same time allow for
18 the development of our timber resources that today
19 are considered marginal and which again can offer,
20 as far as the future is concerned, scope for further
21 development of our forest resources in British
22 Columbia.

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RPS 1 At the time it is only being consumed to a
2 little less than 50 per cent of the annual allowable
3 cut base, on the total forest industry of the province.

4 MR. STEWART: Well, Mr. Chairman, I would
5 propose now to move on to another subject unless there
6 are further questions on sales tax.

7 THE CHAIRMAN: No, I don't think so. Is there
8 anything further on sales tax?

9 MR. STEWART: I would like to come now to
10 the subject of depletion in your industry.

11 COMMISSIONER PERRY: I wonder if in moving
12 forward you realize you have missed the V.3, another
13 tax on the capital, that is withholding tax.

14 MR. STEWART: Yes, I am proposing to come
15 back to that. As far as depletion is concerned have you
16 any figure or estimate figure either for Canada as a
17 whole or for British Columbia in your industry as regards
18 accumulated depletion which has not been utilized up until
19 now for tax purposes?

20 MR. HOFFMEISTER: We haven't that figure
21 available, Mr. Chairman. However, we would be pleased
22 to try and arrive at it. Is it practical to do that?

23 MR. MAHOOD: I am not aware of any place it
24 is available. I think the best we could do would be
25 some pretty gross estimates from member companies. I
26 am not at all sure that that is even available in that
27 form.

28 MR. CHAMBERS: I am wondering would the
29 taxing statistics break down the assets, the now depreciated
30 capital cost or the assets that were something separate -- I



2 ~~Do~~ ~~am not~~ ~~sure~~ ~~at~~ the moment whether they do show that, assets
3 employed and so forth. I wondered if they had that
4 information available. We wouldn't have it. MR. MAHOOD: I
5 have an extract from the total depletion now claimed across
6 Canada in the year 1960 and this is taken from the tax
7 returns and that amounted to \$12,000,000.

8 THE CHAIRMAN: What industry are you talking
9 about?

10 MR. MAHOOD: The forest industry of Canada,
11 the timber depletion. I don't recall but I believe
12 there was a total figure on timber shown on the assets
13 of the reporting companies. It may be possible.

14 MR. STEWART: You have then a figure for the
15 year 1960 for depletion taken. Would you have any idea
16 as to whether the addition to depletion accounts in that
17 year would exceed or be less than \$12,000,000?

18 MR. MAHOOD: No, I couldn't give you that.

19 MR. STEWART: Let me leave this, perhaps on
20 this note, that if you find you can provide us with
21 material which would indicate the magnitude of the problem
22 as regards the period up 'til now, I think it might be
23 helpful if the Commission could have it.

24 MR. HOFFMEISER: We would be very glad to
25 try and get it.

26 THE CHAIRMAN: It may be our staff will have
27 it. Don't go to work if our staff has got it. There
28 can be very ready communication between you.

29 MR. STEWART: I don't think the staff has it
30 now. I think I would have got it from the staff if they
had. Well now, gentlemen on page 28 of your brief, in



D3 1 particular paragraph V.9 you indicate that for many years
2 it has been urged by timber owners that depletion should
3 be allowed on realistic values and you go on to say
4 this is a subject which should be explored further.
5 Well now, are you not putting to us that the present
6 cost depletion should be altered, and if so, what sort
7 of alternative are you putting to us?

8 MR. HOFFMEISTER: Well, very briefly, Mr.
9 Chairman and Mr. Stewart, depletion today is based on cost
10 and we would like to see depletion altered and be based
11 on realistic current values of timber.

12 THE CHAIRMAN: Mr. Stewart, might I proceed.
13 Being an accountant I am rather interested in this.
14 I am afraid I am inclined to look at this matter, first
15 of all, what is the right determination of income and
16 secondly, should there be some concession made to this
17 industry because of such and such. Concessions being taxes,
18 taken off one group they go on to other groups. This
19 is not yet something that is lightly done and there has
20 got to be a good reason. There may be very good reasons.
21 I don't suggest there is not. It would have to be very
22 strong. I think one should approach this having regard to what
23 is the right measure of income, and this is essentially
24 an accounting thing which accountants have dedicated all
25 their talents to down through the generations. I would
26 like to ask, as an accountant, do you amortize these things?
27 How do you do it?

28 MR. HOFFMEISTER: Mr. Chambers, would you
29 make a comment?

30 MR. CHAMBERS: Are you referring to the replace-



D4 1 ment cost technique? In other words what we are suggest-
2 ing here is that the depreciation, amortization of timber
3 would be carried on the usual basis in the accounts, but
4 that an allowance would be made recognizing the increased
5 value, today's increased value.

6 THE CHAIRMAN: Which would be the right
7 measure of income?

8 MR. CHAMBERS: The right measure of income
9 for tax purposes?

10 THE CHAIRMAN: No, the right measure of income
11 for accountants?

12 MR. CHAMBERS: I think I would have to admit
13 that the cost basis would be a better measure of income.

14 THE CHAIRMAN: I think most accountants
15 would agree with you. Therefore what you suggest is not
16 a change in the measure of income, it is an allowance
17 over and above that.

18 MR. CHAMBERS: Yes. You mentioned this is
19 an allowance and this touches a tender subject. You
20 begin to think we are asking for concessions. I don't
21 think this industry is depressed to the extent it is
22 asking for concessions. I think the main thing here
23 is we are so conscious of our competition, very conscious
24 of the situation in the United States where such an
25 allowance is made with drastic reductions of their taxes,
26 competitively and through a flow of capital proposition and
27 in every other respect this is not -- not in Canada. When
28 you speak of shifting the burden as a result of this
29 I believe it is worthwhile considering.

30 THE CHAIRMAN: Yes, I am not suggesting that



D5 1 for one moment the burden should not be shifted. I
2 am simply asking is this matter of great significance?
3 It may be in the national interest. If it is in the
4 national interest let's have the pitch. We should know.

5 MR. HOFFMEISTER: Mr. Chambers has referred
6 to the fact that this is being done in United States.
7 The United States is our principal competitor in the news
8 print market and in some of our offshore markets. We
9 understand that a similar arrangement is in practice
10 in Sweden and of course the Baltic countries are our
11 principal competitors for the mid-United Kingdom market.

12 MR. STEWART: Dealing with the American
13 system, is that basically that the companies there are
14 entitled to write their depletion up to replacement
15 or current market value on the payment of capital gains
16 tax on the increase and having written the amount up
17 they are permitted to deplete on the written up value.

18 MR. CHAMBERS: That is essentially it.

19 MR. STEWART: Are you suggesting here that
20 if anything of this sort was considered for Canada there
21 should be some kind of tax on the write-up?

22 MR. CHAMBERS: I don't think this would be
23 necessarily the case. It doesn't follow. The two
24 tax systems are different. This particular method of
25 handling it produces this side result in the United
26 States but it wouldn't necessarily be a feature, an essential
27 feature of such a plan in Canada.

28 MR. STEWART: As I understand it you don't
29 suggest that we adopt any form of percentage depletion
30 in this country. What you have in mind is taking the



D6 1 depletion on a replacement value basis per unit of
2 production, that is correct?

3 MR. HOFFMEISTER: Yes.

4 MR. STEWART: Now, before we get into the
5 basic thing of depletion in your industry I observe in
6 paragraph V.10 you say 'alternatively' that the Federal
7 Government should permit purchased timber rights to
8 be amortized on a straight line 10 year maximum write-off of
9 10 per cent per annum ~~or~~ on a production basis at the
10 taxpayer's option. Is there any significance in the
11 words "purchased timber rights"? Are you distinguishing
12 there between Crown lands and the rights of Crown lands
13 and other lands or do you use the expression "purchased
14 timber rights" in relation to all acquisitions?

15 MR. CHAMBERS: We use "purchased" in the sense
16 of the way capital has been invested in the acquisition
17 of timber which may or may not be Crown land.

18 MR. STEWART: Well then, having regard to
19 the Chairman's original question as to whether or not
20 any measure which is adopted results in the proper
21 computation of income, do you put this 10 per cent write-
22 off alternative forward, not necessarily on the basis
23 that it would be a proper corporate method but on the
24 grounds that it is appropriate to your particular
25 members to recover these costs over a relatively short
D2 26 period?

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2 MR. HOFFMEISTER: Mr. Chairman, I think that
3 Mr. Chambers possibly could answer this insofar as it
4 affects his company because his company is involved --
5 they are one of the companies out there,
6 they have timber licences and also they are a buyer from
7 the government.

8 MR. CHAMBERS: Mr. Chairman, Mr. Stewart,
9 your question is if we have this particular type of
10 write-off, in fact, this alternative method of a maximum
11 10 per cent, is that a satisfactory alternative to the
12 replacement value of timber, in other words the type
13 of suggestion in V.9?

14 MR. STEWART: I think you are suggesting to
15 us it would be a satisfactory alternative.

16 MR. CHAMBERS: Well, I think in the order of
17 preference the former would be mentioned first. It would
18 be I think our preference. However, on this further
19 alternative there is another point, if you just glance
20 at V.8 you will see the reason for it, we have included
21 privately held timber under tree farm licences. This has
22 extended the life of this timber I think beyond the
23 economic features of the capital cost allowance. In
24 other words I don't find anything to quarrel with when
25 the Tax Department in its wisdom says you divide the
26 quantity into price and establish an amortization rate
27 which you use for taxable cost over capital cost
28 allowance but when you inject that timber into a
29 perpetual yield you may lengthen this cut disproportionately.
30 ately. It may be many decades before the timber cut.



1 Most of tree farm licences require in their terms a
2 high proportion of government timber, Crown timber each
3 year. You can't get one and carry on with your own.
4 You have to use both sources of timber. As a result of
5 that I think -- the investment concept of capital cost
6 allowance comes into play. If you notice in the capital
7 cost allowance on many occasions the assets no longer
8 exist which you are allowed to depreciate for tax
9 purposes. There must be something more than just
10 physical diminution of value going on in the minds of
11 legislators at that stage. They say you may have your
12 investments back in this manner.

13 The suggestion here in V.10 is that if that
14 applies it is too long. We would like to place a maximum
15 period on the time that a taxpayer has to wait for
16 his allowance.

17 MR. STEWART: In other words there is a
18 dual aspect to this paragraph as I understand it, the
19 one being that on historical cost or on replacement
20 cost basis it may still take a considerable time to
21 recover, to obtain depletion even if your units are
22 being worked, but the other aspect is that if a particular
23 limit is not being worked for a considerable period the
24 time for recovery is extended well after.

25 MR. CHAMBERS: Yes.

26 MR. STEWART: Is that second aspect really
27 of great importance in the industry?

28 MR. MAHOOD: I wonder if I could as a
29 forester talk to the question of timber limits being
30 worked in B.C. It is quite unique from the rest of



1 Canada with the tree farm licence. We are not limited
2 on that particular piece of ground that is being worked,
3 in fact, because of the allowable Act, while you may
4 have timber some distance away you can cut another area --
5 what we are talking about here is the physical action
6 of having to put that material into operation, into the
7 working plant whereas under the former practice of cutting
8 you may have visualized cutting out and recovering the
9 capital within five, ten, fifteen years. Now, under
10 this plan in many instances they are not going to recover
11 anything for 50, 60 years if you agree to liquidate
12 existing mature timber over that period.

13 MR. STEWART: Under the current practice of
14 the Tax Department are you not permitted to claim depletion
15 on a limit which is included in this area but which does
16 not happen to be in the process of being liquidated?

17 MR. CHAMBERS: I think the reason for that
18 is when the rest of the timber is injected by the Crown
19 and there is no purchase price beyond stumpage at the
20 time of cut. It could be see simple prolonging --
21 it is possible for the timber held in fee simple, this
22 you can inject in the tree farm licence and
23 with Crown timber, there is no tax, possible tax because
24 there is the question of cutting and paying rates on
25 stumpage and taking it away. We were thinking of the
26 possibility of a separate clause to be extended to the
27 whole area.

28 MR. STEWART: What I was really asking was
29 whether in practice now that you have this tree farm
30 concept the Department still considers that the area within



1 the tree farm will consist of several classes for deprec-
2 iation purposes.

3 MR. HOFFMEISTER: That is right.

4 MR. CHAMBERS: Yes, it is quite experimental.
5 I think that well-recognized physical limits making up
6 the tree farm licence -- I think it is a long way when
7 somebody will persuade them the entire tree farm licence
8 is one limit, one class. This will not, notwithstanding,
9 take care of the problem because I don't think that that
10 will ever permit you to amortize on the Crown cut. In
11 other words you have these classification problems.

12 Let us say you have a mature big tree and we are now
13 cutting towards rotation -- it may happen that for 80
14 years you will be cutting off the mature so that the
15 theory would be in the last year of the crop rotation
16 you would be cutting your timber, your mature timber.

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1 COMMISSIONER BEAUVAIS: That is selected cut?

2 MR. CHAMBERS: Yes, but your question was, I
3 think, this: That could we not deplete that as a
4 single class and I think the reason there is that you
5 never would get the Tax Department in all conscience to
6 admit that the production came from your property
7 because the production of these intervening years will
8 come from the Crown.

9 MR. STEWART: If the property forms one
10 class, for capital cost allowance purposes, and you
11 have an accumulated amount of depletion in respect to
12 property of that particular class, then you may be
13 entitled to take that in relation to the production
14 from that class?

15 MR. CHAMBERS: That is what I say. I think
16 the difficulty there is that there is no production
17 from the property. I am speaking now property as a
18 class. He has no production. In the intervening years
19 while he is out cutting Crown timber, he has no
20 production from his own property. This is the
21 property that was injected into this entire limit.
22 If he says now I had 50 million feet this year
23 production, they say where? It came from the Crown.
24 You can't deplete your own property. We have
25 established rates for you. Everything is fine. We
26 have got this in one class or an average rate for the
27 entire timber. When they come to the physical test
28 of what production is from the property, I don't
29 think they are permitted to borrow production from
30 Crown lands. Stumpage and royalty is payable



1 immediately.

2 THE CHAIRMAN: How does one measure income in
3 this instance, in your accounts?

4 MR. CHAMBERS: You are thinking in terms
5 of the value of this particular timber we are
6 introducing?

7 THE CHAIRMAN: It is the end timber, it's the
8 final cut at the end of the whole area before you write
9 it off in your books.

10 MR. CHAMBERS: At any time you can pull it
11 out of that agreement, so that we as accountants, we
12 just say you still have that asset. You haven't given
13 it back to the Crown. If this were the case, you
14 would have justification for a write-off.

15 THE CHAIRMAN: You probably, just as I do,
16 deplore the necessary departure from proper determinat-
17 ion of income in order to arrive at taxable income
18 and here you are coming at it again. Perhaps it is
19 the only way to do it. I don't know. I wish you could
20 find something which would form good accounting.

21 COMMISSIONER PERRY: One thing that bothers
22 me is that I really cannot see why they are
23 alternatives. This seems to be designed for two
24 purposes. You should be asking for both of them.

25 MR. CHAMBERS: They are not incompatible.

26 COMMISSIONER PERRY: It would be nice to
27 get either one. I will agree with that.

28 MR. CHAMBERS: In saying they are not
29 incompatible, I am strongly hinting that there is a
30 possibility that we might get both. We don't really



1 have to use the word alternative.

2 COMMISSIONER PERRY: The first one was
3 designed for the timber you are cutting on purchase
4 lease where you say, in effect, you want a larger
5 allowance and the second is where you are not cutting.

6 MR. CHAMBERS: Yes.

7 COMMISSIONER PERRY: Where you say you want
8 some allowance.

9 MR. HOFFMEISTER: I think here we would like
10 very much to have both.

11 COMMISSIONER PERRY: Don't misunderstand. I
12 have become your advocate.

13 MR. HOFFMEISTER: We assumed that. I think
14 it might be pointed out here that the working plan
15 covered the tree farm license; it does not take into
16 consideration the problem of depletion. The working
17 plan is worked out according to drainage, according to
18 quality and species that are required in order to
19 permit an orderly operation of the company concerned
20 and it could be that in this year the particular
21 working plan with some owned timber, privately owned tim-
22 ber, either Crown grant or licensed, it could be that the
23 plan would operate for ten years without any of the
24 private timber being used, and this is the problem
25 which Mr. Chambers has been referring to.

26 THE CHAIRMAN: I realize this. I wish Mr.
27 Chambers would change his accounting and come forward
28 and say this is the right way to do the accounting.

29 MR. RANKIN: I think Mr. Perry has put his
30 finger on our problem. What we are trying to do is



1 improve the rate of return in the industry and to
2 activate it for further growth. If we can recover
3 this capital that is locked in, and maybe locked in
4 for ninety years, we can then go out and acquire more
5 timber and expand. Right now each of the larger
6 companies have a block of capital tied up, that you
7 might say is unproductive, and it is going to stay
8 there for an awfully long time.

9 I think this inhibits the growth of the
10 industry and certainly lowers the rate of return.

11 MR. MAHOOD: It might be interesting to
12 point out in the sense at this point the competitive
13 situation, in respect to the United States and the
14 Canadian companies. I have in front of me two
15 illustrations of American companies who have, as a
16 result of this allowance, and so on, have effected --
17 Georgia Pacific Corporation, they have an effective
18 tax rate of 32 per cent, as a corporate tax. The
19 Weyerhaeuser Timber Company had in 1962 26.7 per cent
20 against the 50 per cent which our industry is bearing
21 in this area. This underlines what we are talking
22 about, in a competitive sense. This is what has
23 transpired in the Georgia Pacific, Northwest United
24 States and the whole United States.

25 MR. STEWART: Are these reduced rates, in
26 the case of those two companies, due basically to
27 depletion allowance?

28 MR. MAHOOD: Due to the treatment of the
29 replacement cost.

30 COMMISSIONER PERRY: I hope they are not also



1 cooperatives?

2 MR. MAHOOD: No, they are not.

3 MR. CHAMBERS: We have no information on this
4 particular point. We just assumed that this is what
5 is doing it. There is nothing else in their accounting
6 notes to indicate there is any other reason for these
7 spectacularly low rates.

8 MR. MAHOOD: That is quite correct. We took
9 these from their statement.

10 COMMISSIONER BEAUVAIS: When you acquire Crown
11 land in British Columbia is it just for one year or
12 for a certain number of years?

13 MR. CHAMBERS: It depends. They had Crown
14 lands -- this will be in fee simple. This will be
15 in perpetuity. There are other forms of timber that
16 you can obtain, such as a right given to one party
17 and given for practically until the timber is cut,
18 the timber that is on that lot. He has the right to
19 enter and cut that timber. This can be sold privately
20 over the years between the parties.

21 COMMISSIONER BEAUVAIS: I am comparing that
22 with the Quebec situation. In Quebec you acquire land
23 from the Crown with the right to cut and it might cost
24 you a few hundred thousand dollars but this can be
25 revoked at the end of each year. That is an annual
26 license.

27 MR. CHAMBERS: I think the license which
28 compares closely with that is our tree farm license,
29 which is subject to this agreement.

30 COMMISSIONER BEAUVAIS: That would make me



1 think the rate of depletion should be accelerated
2 because you can be deprived of your property after one
3 year.

4 MR. CHAMBERS: That would be true of the
5 Crown property, the Crown property placed at your
6 disposal, but if the tree farm licenses are revoked,
7 you regain your own rights in fee simple. In fact,
8 you never give it up.

9 MR. MAHOOD: I think sir there is a little
10 distinction between what transpires in Quebec and
11 British Columbia. In the tree farm licenses, in the
12 majority of the tree farm licenses the company who
13 made the contract with the Government had large timber
14 holdings in fee simple or perpetual leases from the
15 Crown for which they made an agreement to put their
16 private ownership into a Crown ownership to farm with
17 this new unit called the tree farm license.

18 Now this tree farm license requires annual
19 performance, a whole series of conditions. One must
20 cut the allowable cut every year, and so on. At any
21 time that the contract is cancelled, for one reason
22 or another, the private timber which had been put
23 in is returned to the former owner.

24 COMMISSIONER BEAUVAIS: What bothers me is
25 that in fact after ten years, for instance, because
26 you mentioned a rate of 10 per cent, you might have
27 on your timber limit as much wood as at the start
28 if you carry on the selective cut, isn't that true?
29 Because you have the natural growth every year.

30 MR. MAHOOD: This is one of the undertakings



1 of the tree farm license that you must replace the
2 growth which you cut.

3 COMMISSIONER BEAUVAIS: So you have about
4 the same?

5 MR. MAHOOD: This growth which is replaced
6 belongs to the Crown. It does not belong to you.

7 COMMISSIONER BEAUVAIS: If you are doing
8 that, after ten years it means that you would have
9 recovered your own cost and yet you would have probably
10 as much wood as at the start. Isn't that a fact?

11 MR. CHAMBERS: That is true. That is also
12 true with regard to depreciation of a building. You
13 may fully depreciate a building -- I realize this is
14 mathematically possible, you get it down to a fraction
15 and still have a building.

16 COMMISSIONER BEAUVAIS: Yes, but the
17 building is probably outmoded at that time, but not
18 trees. The trees are as good after ten years as they
19 are at the beginning.

20 MR. CHAMBERS: The idea here is that there is
21 a contractual investment concept in the capital cost
22 allowance. They do not really measure it in terms of
23 the physical reduction in value. They simply say
24 well you may have your money back or our share of the
25 money back, if you like, over a period of time.

26 MR. MAHOOD: What we are talking about here
27 is there is an ~~initial~~ investment in the original
28 purchase of the mature timber. This is returned in
29 the way of depletion, to get this capital return. At
30 the same time that you are logging that timber, you are



1 making an additional expenditure every year to replant
2 that forrest, which costs so that you have two types
3 of costs.

4 COMMISSIONER BEAUVAIS: But what you spend
5 every year is charged ~~ag~~ainst income?

6 MR. MAHOOD: That is correct.

7 COMMISSIONER BEAUVAIS: It is not capitalized.
8 Another thing: How would you value the timber today,
9 standing timber for depletion purpose?

10 MR. CHAMBERS: I think -- this is in British
11 Columbia at any rate, we have a fairly realistic system
12 of timber value in that the Crown are most interested
13 in this particular aspect and are constantly valuing
14 timber for their own sales purposes and we just
15 perhaps align ourselves with them. I would think that
16 other governments, Provincial Governments are probably
17 in the same situation. They may not be quite as
18 active and as aggressive as British Columbia but
19 this supplies us with an ideal price structure. Not
20 an ideal price, an ideal system I should say.

21 COMMISSIONER GRANT: I judge that you acquire,
22 or a company acquires its timber rights in three ways:
23 One is through outright ownership of real estate, of
24 land. Two: by the acquisition of Crown property
25 through purchase, through outright purchase from the
26 Crown?

27 MR. CHAMBERS: That would be No. 1.

28 COMMISSIONER GRANT: Or you may acquire
29 property from private owners?

30 MR. CHAMBERS: Yes, but it would be in fee



1 simple.

2 COMMISSIONER GRANT: Both of those come to
3 the company as outright ownership, whether from the
4 Crown or from the individual, the company owns them in
5 fee simple. The third would be all cutting rights for
6 which you would pay on a stumpage basis.

7 MR. CHAMBERS: I think really you might say
8 four because there are two distinctions there to make
9 on cutting rights. One is cutting rights have been
10 given on a particular limit some time ago by what we
11 call timber licenses. Now these licenses were merely
12 giving you the right to cut and they even imposed
13 a royalty. They imposed a royalty not by way of
14 Act of Parliament, but just said this is it, this is
15 what you pay. It is a fairly nominal sum to the
16 Crown, and the value assigned is the difference between
17 the market value and royalty, the capitalized value.
18 Then, of course, you could deal directly with the
19 Government. You could say I want some timber. They
20 will say all right there is the timber, then for that
21 source no price is mentioned at this particular time.
22 No price mentioned for the land. The price now is just
23 for the trees that you are going to take out, so much
24 a thousand on the spot. This is a tax sale. It is a
25 public auction basis.

26 MR. STEWART: Well now I would like to address
27 myself for a moment to the question of the present
28 segment of the Act and the regulations. In doing that
29 we will perhaps touch on one or two points that
30 have already emerged, but you are all familiar, of



1 course, with the fact that depletion, so far as your
2 industry is concerned, is now provided for under the
3 regulations passed under Section 11(1)(a) of the Act
4 which deals with capital cost, notwithstanding the
5 fact that under Section 11(1)(b) provision is made
6 for a deduction of allowance in respect of, among
7 other things, timber limits.

8 Now I wonder if you gentlemen have at any
9 stage of the game received from the Department or
10 elsewhere any explanation of the fact that the
11 depletion regulations which concern your industry have
12 been passed under 11(1)(a) rather than 11(1)(b)?

13 MR. CHAMBERS: None whatsoever.

14 MR. STEWART: The reason I ask that question
15 is this: You may recall that in 1957 at the annual
16 meeting of the Canadian Tax Foundation there was a
17 discussion of the forest industry which was under the
18 general subject "Forestry Tenures and Tax".
19 My recollection is that this occurred shortly after
20 Mr. Moore's book came out which was called "Forestry
21 Tenures and Taxes in Canada", and at page 112 of the
22 report of those 1957 proceedings, one of the speakers
23 was Mr. Godwin of Ontario Paper. Mr. Godwin suggested,
24 at page 112 that the proper word to use in relation
25 to the type of allowance we have been talking about is not
26 really depletion at all. He said, and I will perhaps
27 read a paragraph from page 112:

28 "The word 'deplete' means
29 to exhaust or to empty. It
30 describes the process of tapping



1 an oil reservoir or digging ore
2 from a mine. It describes a
3 logging operation where a mature
4 stand of trees is sold and removed
5 without provision for renewal. It
6 was obviously applied to the forest
7 industry in the days when timber
8 operators bought or acquired
9 mature timber with every intention
10 of liquidating in the shortest
11 possible time. It is a term to
12 be used in application to an
13 immediate saleable, non-renewable
14 natural resource product yet, in
15 forestry and under Federal tax
16 law interpretation it has come to
17 mean a form of capital recovery
18 allowance only effective when the
19 forest crop is big enough to cut".

20 Now those, of course, are Mr. Godwin's
21 comments but having regard to the realities of the
22 forest industry at the moment, have you any views on
23 the question whether we are really dealing with
24 depletion in the strict sense or whether we are dealing
25 with a capital cost allowance?
26
27
28
29
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MR. CHAMBERS: Well, Mr. Chairman, Mr.

Stewart, the reasons, the decisions of the Appeal Board on this question gave might answer that. It is the only answer we can cite to you at the moment. I think this is the first time the point has come up and I think outside the appeal we assume that those decisions represent the law, and I understand both Mr. Fisher and Mr. Fordham's decision -- decided that recapture applied to depreciable property and this was interpreted to relate to timber that was cut. I think one of them, Mr. Fordham said a tree cut is a tree gone, a tree taken away. We admit the anomaly that existed and still does in the regulations being made on II(1)(a) instead of II(1)(b) and it is perhaps true that this is a sloppy bit of drafting, sloppy bit of implementing of regulations. The clear intent and purpose of the Act . . .

MR. STEWART: I think the question I am raising is whether it is sloppy at all. One of these decisions, at any rate, is under appeal and it is impossible to say what the result would be, but are we not concerned here with the renewable resources and when we are dealing with renewable resources may it not be that the question of allowance on capital investment should be dealt with under a general depreciation framework rather than under depletion framework?

MR. CHAMBERS: May I say here two things in connection with this particular point, Mr. Stewart. First of all with regard to the question you raised earlier about this being a renewable asset, now getting back to the accounting thought, the asset we have today will



F2 1 not be renewed on the basis of crop rotation.

2 MR. STEWART: On the basis -- ?

3 MR. CHAMBERS: On the basis of crop
4 rotation and the assets we will have next time around
5 is a totally different asset from the one we have now.
6 The one we have is a gigantic tree possibly 500 years
7 old, most of them around 360 years old. These are trees
8 of immense size and immense value from the forest industry
9 viewpoint. The next time what we are going to have is
10 trees where it is virtually impossible to get clear
11 lumber, structural timber. The next ones we get we will
12 be more or less predominately in the pulp business. This
13 changes it. We pay for wood, mature wood. These are
14 the figures we have on our books. At the moment
15 they are worth even more than we have on our books.
16 That is point one.

17 I would like also to give a little historical
18 background on 11(1)(a) and 11(1)(b) in connection with
19 it being sloppy. I think it is deliberate and slightly
20 fiendish. What happened here was that when the new Act
21 came up another attempt was made by the forest industry
22 to get some form of replacement recommendation, recommend-
23 ation of replacement values in the timber. At the last
24 moment the lawmakers made a switch and they said we
25 will take out 11(1)(a) and put you under 11(1)(b) where
26 cost is no longer the limiting factor. That is correct.
27 11(1)(a) is cost and 11(1)(b) has no limiting factor
28 at all. We thought this was a significant victory. It
29 was a last minute change in the Bill, and I think if you
30 read the transcripts at that time I think it was between



F3 1 the first and second reading that the Bill was changed.
2 This exchange was made and timber limits were injected in
3 11(1)(b). We were rather hopeful in the disposition. We
4 thought the framework of it to be the regulations we
5 proposed, but they were never used, they were never utilized
6 in any way, shape or form. They simply went ahead
7 and made regulations under 11(1)(a) and ignored 11(1)(b).

8 MR. STEWART: I would like to come to the
9 question of recapture at the moment, and notwithstanding
10 that we don't know what the result of the current
11 litigation may be, if this allowance is related to cost,
12 whether it is properly so related or not, if it is
13 related to cost then we are dealing with renewable
14 resources. If you come to sell a limit which is, let
15 us say partially logged as opposed to one that has been
16 completely logged and if you recover on that disposition
17 more than your undepreciated capital cost is it or is it
18 not reasonable that a normal recapture concept should
19 be applied?

20 MR. CHAMBERS: I would say under all
21 circumstances, notwithstanding these decisions, I would
22 say it would be unreasonable to presume that recapture
23 applies. Recapture, I think, is an indication that an
24 allowance in the past is now subject to correction by
25 facts at the present time. Taking a solid asset such as
26 a building you have allowed too much for this and you
27 are now correcting it through recapture. It is only
28 because the asset is there in front of you to make this
29 decision. In the case of timber you can't have a
30 correction. What you are really doing is making a second



P4 1 mistake. You have made, apparently, if the value of what
2 is left is greater than undepreciated capital cost --
3 there is assumption possibly that the allowance may have
4 been high. I don't know. This could be or could not
5 be, but let us say this assumption, to acquire what is
6 left is obviously wrong -- recapture has to apply to
7 an existing asset. How can the place -- no buyer in
8 his right mind is now going to say I am going to give
9 you an extra \$10,000 for the fact that the trees are not
10 there and are worth more or would be worth more if they
11 were there. He is looking at what is left so he is
12 buying what is left and that has not been depleted so
13 no charge or claim can be made here.

14 MR. STEWART: Does it come down to the
15 definition of what an asset is. If you consider that
16 a particular limit is acquired the asset is growing
17 timber on the limit as it may exist from time to time
18 and if the authorities give you an allowance in respect
19 of your capital cost of that asset -- that is growing
20 timber as it may exist from time to time -- if at
21 some future stage you sell that asset, mainly the
22 growing timber as it exists at that particular time and
23 you do recover more than undepreciated capital cost,
24 is there not logical in saying that the recovery to
25 the extent of the capital cost allowance taken should
26 be brought back in?

27 MR. CHAMBERS: Well, I just said I don't
28 see how this particular price paid can have anything to
29 do with the trees that have been removed : because the
30 buyer must arrive at the site and look at what is there.



F5 1 You are thinking in terms of growing sites, thinking in
2 terms of residual value. This is another factor. I am not
3 proposing to inject residual value in it. Capital
4 cost allowance are supposed to allow for that adequately.

5 MR. STEWART: Yes, I am just speaking as to
6 how this came about. I think you are approaching this,
7 and I don't say you are wrong, from the point of view
8 of depletion and the Department appears to be approach-
9 ing from the point of view of cost, capital cost allow-
10 ance, and it seems to me at the moment that there are
11 arguments both ways.

12 MR. CHAMBERS: You don't forget in giving
13 an allowance under 11(1)(a) they still look at it as a
14 very different type of asset. They said what is the
15 quantity there -- that gives you a unit price on every
16 tree you took out.

17 MR. STEWART: Is it not really an application
18 of the normal procedure that you recover capital cost
19 of assets over a period of their useful life?

20 MR. CHAMBERS: Measurements?

21 MR. STEWART: Yes.

22 MR. CHAMBERS: In fact that measurement --
23 they can't have recapture apply to such a method.

24 MR. STEWART: They do it in cases of other
25 assets.

26 MR. CHAMBERS: Because they don't have such
27 a measure. For example take a machine that can do
28 10,000 units, it is a dwindling in size, it just
29 disappears after 10,000 units. I think that would give
30 capital cost allowance to so much a unit. Once again,



F6 1 I don't see how recapture can apply when you are still
2 selling what is left.

3 MR. STEWART: In any event you recover your
4 cost out of production as it occurs. Let me ask you
5 one further question or two about this replacement value
6 method. Let us suppose that at the time a particular
7 limit is acquired; an amount of depletion per unit is
8 X and that we go on this replacement method which you
9 suggest, replacement cost method and at the end of a
10 period of say, 15 years, the replacement value of what
11 you are taking off at the time has gone up to 2X, and
12 to make it simple let us assume that this particular
13 point you revalue and you then take depletion on the
14 basis of 2X per unit. Well, let us suppose -- I realize
F215 this is probably not the way it would happen, let us
16 suppose at the end of 25 years from the time of the
17 original purchase; you have recovered on this replacement
18 method substantially more than the original cost and
19 at the end of the 25 years the replacement value suddenly
20 goes up to 3X. Does the replacement method mean that
21 the amount of depletion that you recover is not related
22 in any way to the original cost and that as years go
23 by and the price rises as a result of inflation and other
24 factors your depletion in respect of a particular
25 limit is always -- may always be of an increasing rate
26 and go on indefinitely.

27 MR. CHAMBERS: It would keep pace with the
28 market, but it wouldn't be subject to the violent
29 fluctuations in total because if they went from 2X to
30 3X it would just apply to the particular cut and another



F71 year it must get down to 2X or up to 4X. It would keep
2 pace with the current value of the timber.

3 MR. STEWART: So that it is not in any way
4 related to the original cost.

5 MR. CHAMBERS: The suggestion is as far as
6 the original cost is concerned you would pick it up with
7 capital cost allowance and the excess would be the
8 allowance that we refer to, the special allowance
9 referred to now. This is the way they do it in the
10 United States, they refer to it as the difference between
11 the cost and market.

12 MR. STEWART: Yes, but on this basis the
13 replacement cost could always be moved up if market
14 prices moved up.

15 MR. CHAMBERS: Yes, in respect of that year's
16 cut.

17 MR. STEWART: Yes.

18 MR. CHAMBERS: So you have an average, a
19 weighted average.

20 MR. STEWART: If you paid \$100,000 and you
21 subsequently increase -- the market price subsequently
22 increased so that during the period of the increase you
23 are getting a large allowance by virtue of a write-
24 off on that particular market value, if that market
25 value on current production then goes down, does it
26 follow that you must re-adjust your replacement price?

27 MR. CHAMBERS: The varied market each year.

28 MR. HOFFMEISTER: Of that particular year.

29 MR. STEWART: Well, now on page 21 of your
30 brief in item C at the top of the page you deal with the



F81 question of recapture and you suggest that the application
2 of recapture to the sales proceeds of timber that
3 has been depleted merely brings into taxation the
4 inflated value of the timber. To what extent are there,
5 in fact, in British Columbia sales of limits?

6 MR. HOFFMEISTER: Well, Mr. Chairman, there
7 are not very many but Mr. Mahood, who was with B.C.
8 Forest Services for a number of years could possibly
9 comment on that further.

10 MR. MAHOOD: I would think in general terms
11 this type of sale is rare because no one who is in bus-
12 iness with a working plant under the annual allowable
13 Act is going to dispose of his assets or any part of
14 them.

15 MR. STEWART: Well, this isn't a particularly
16 serious problem, I take it.

17 MR. MAHOOD: Which isn't a problem?

18 MR. STEWART: The question of recapture.
19 You shake your head, Mr. Mahood. Does that mean the
20 answer is no?

21 MR. MAHOOD: Well, it is rare, but when
22 it applies it strictly applies as a vengeance.

23 COMMISSIONER BEAUVAIS: What about any
24 exchange?

25 MR. MAHOOD: Any what?

26 COMMISSIONER BEAUVAIS: Any exchange.

27

28

29

30



1 MR. HODSON: We have had a couple of exchange
2 transactions. I don't know whether it legally applies
3 but as far as departmental practice is concerned, it is
4 not attempted to calculate.

5 MR. MAHOOD: I might mention that if the
6 principle of recapture were applied here, it would be
7 a serious deterrent to some very useful consolidation.

8 MR. STEWART: While there may not be any
9 disposition of cash, there may be a number of these
10 exchanges of the source you mention?

11 MR. MAHOOD: Yes.

12 MR. STEWART: Now the proceedings at the 1957
13 tax conference that I mentioned, Mr. Moore who wrote
14 that book, was present but actually the point that I
15 wanted to put to you at the moment comes not from the
16 Conference proceedings but from Mr. Moore's book with
17 which I am sure you are familiar. It is called
18 "Forestry Tenure and Taxes in Canada", and it was
19 published under the auspices of the Canadian Tax
20 Foundation in 1957.

21 At page 227 where he is dealing with the
22 question of depletion, he indicates that in the
23 conversation he had had with representatives of the
24 industry, while he was working on this book, there
25 appeared to be remarkable little interest in
26 depletion, and he says at page 227 this:

27 "The small interest shown in
28 the depletion allowances by persons
29 interviewed may be attributable
30 to their resignation to the present



1 allowances. In contrast, industry
2 briefs submitted to the Federal
3 Government at various times
4 have pressed strongly for a revision
5 of the depletion allowances. The
6 briefs cite a number of points to
7 support their case."

8 I will come to the points which Mr. Moore
9 then proceeds to set out. His first point in substance
10 is that the present law presents an inducement for
11 the holder of a stand of timber to sell those stands
12 en bloc and purchase other stands so that he can claim
13 depletion on his higher cost. Now is this type of
14 thing current at the moment? I would rather judge from
15 what you have said that sales of this sort are not
16 common in British Columbia at any rate.

17 MR. RANKIN: Where this does come into play
18 more is where you have acquired, or where an existing
19 company has acquired a smaller company or acquired the
20 position of an operator, and that operator wants a
21 price. He will take into account the possibility of
22 recapture. In fact, it's recapture which is applied to
23 it when you are buying out a smaller logger or another
24 company. They naturally are looking at their net and
25 want you to compensate them for this recapture. This
26 is a big factor in a timber purchase.

27 MR. STEWART: Well that situation, of course,
28 would have been true presumably in 1957 because
29 recapture had been in effect for some time then.
30 Actually Mr. Moore, in his second point, rather puts it



1 the other way. He says that the industry has argued,
2 that some of those concerned have argued that the
3 present law increases the elimination of the small
4 and medium sized independent. He goes on here and
5 says:

6 "In 1947 it was said that in
7 British Columbia since 1940 there
8 have been at least 37 sales of
9 properties as going concerns.
10 Only about five or six of the large
11 operators are under the same
12 management as they were at the
13 beginning of the War."

14 Now I suppose that if the people in question
15 are the smaller people and they have incorporated
16 companies so that they are in a position to sell
17 shares rather than assets, the question of recapture
18 would not arise but have you any comment on this
19 question whether the present depletion provisions have
20 led to the disappearance of the small entrepreneur?

21 MR. MAHOOD: No, I am quite confident that
22 is not the main reason sir or even a significant one.
23 This buying and selling of small companies is going on
24 in all industry, not just the pulp industry.

25 THE CHAIRMAN: We will break for ten minutes.

26 ---A short recess.

27 ---Following short recess.

28 MR. STEWART: Gentlemen, I think, because of
29 the time factor, I perhaps better not go through Mr.
30 Moore's list of ten points unless time permits at the



1 end. I would now like to switch, if you are agreeable,
2 to another question, that of survey investigation and
3 other intangible costs which you dealt with on page
4 28 of your brief. Now in paragraph 5.11 and 5.12 you
5 suggest that certain types of expenditures which are
6 apparently not now allowed should be treated as
7 deductible expenses in the computation of income or
8 in certain cases should at the option of the taxpayer
9 be capitalized and become subject to capital cost
10 allowance.

11 One type of expenditure you mention is
12 feasibility studies and the other is the examination of
13 timber areas but I wonder if you could enlarge a little
14 bit on those particular two so that we can be sure
15 exactly what you are driving at?

16 MR. HOFFMEISTER: Mr. Chairman, just before
17 asking Mr. Mahood to cover this point, I would like to
18 mention on the subject of depletion that we are going
19 into this particular item most exhaustively with the
20 staff of the Commission and have already filed several
21 exhibits with them and will continue to explore the
22 matter in some detail.

23 THE CHAIRMAN: You are meeting with them this
24 afternoon?

25 MR. HOFFMEISTER: Yes, that is right.

26 MR. MAHOOD: Some of the illustrations as costs
27 which may not be allowed, and which experience has been spotty
28 on, and in some instances they have been allowed,
29 others they have not but I would say others are the
30 preliminary expenses of survey in preparing tree farm



1 license application, which now requires provincial
2 legislation and I would say the exploratory
3 investigation or feasibility studies to determine
4 whether the property is acquired or not. Now in the
5 British Columbia system of timber acquisition, it
6 involves public bidding. There is quite often the
7 fact that people will go and examine property, make
8 such a bid but not acquire the property. In that
9 instance, or in some instances such expenses have been
10 allowed and other expenses have not and this is
11 generally the area about which we are talking. We are
12 hopeful of clarifying to ensure that they are in all
13 cases treated in one fashion or the other.

14 THE CHAIRMAN: What do you mean make a bid
15 and not acquire? If you make a bid you contract to
16 acquire.

17 MR. MAHOOD: You may be the unsuccessful
18 bidder in a public auction.

19 THE CHAIRMAN: In most cases though you have
20 made a survey and then you can capitalize the cost of
21 the survey, and so forth?

22 MR. CHAMBERS: All those things that you
23 mention, yes, but they do not mention all of the
24 expenses. The law in British Columbia requires that
25 they advertise, and it requires certification by
26 a forester, and one thing and another. ~~that they do not.~~

27 COMMISSIONER BEAUVAIS: Under the Federal
28 Government law it is accepted.

29 MR. CHAMBERS: Oh I think they just mention
30 survey cruise, maps, and things of that nature. They



1 leave out legal and newspaper advertising.

2 COMMISSIONER BEAUVAIS: But you are talking
3 about the British Columbia law there?

4 MR. CHAMBERS: No, talking about the fact
5 that British Columbia requires this type of
6 expenditure and the Canadian law does not embrace them
7 in this allowance. It is a very small point.

8 COMMISSIONER BEAUVAIS: It is a very small
9 point but if you do not acquire the limit, as I
10 understand it, then it is not deductible and that is
11 the very point that you are making?

12 MR. CHAMBERS: Yes, that is the major point.

13 THE CHAIRMAN: That is recommendation 4.

14 MR. CHAMBERS: That is right.

15 MR. STEWART: Well I take it that during the
16 discussion with our staff you can clarify still further
17 (a) the cases on which you have found difficulty and
18 the financial expenses allowed as current deductions,
19 and (b) the cases where amounts which you think you
20 should be entitled to capitalize have not been allowed
21 under the present regulations.

22 MR. CHAMBERS: Yes.

23 MR. STEWART: I would like again to refer
24 to Mr. Moore's book and this time at page 218 and I
25 will read from about the middle of that page:

26 "Accordingly, so long as the
27 taxpayer is engaged in the business
28 of holding and exploiting timber
29 lands, current costs of his
30 operations are allowed as expenses



1 of the year because they are
2 fairly directly related to the
3 production of income. The first
4 general rule then is that
5 current costs can be claimed
6 as incurred -- Crown stumpage
7 charges, ground rents, fire
8 protection charges and costs,
9 land taxes, wages of foresters,
10 logging and transportation
11 expenses and costs of planting,
12 seeding, or other operations
13 undertaken to assure satisfactory
14 regeneration."

15 Now that is a general proposition and as
16 we have agreed, you will be indicating to our staff
17 the respects in which certain current costs which
18 you think should be deductible are not presently being
19 allowed.

20 Then Mr. Moore goes on to say that a few
21 matters require special mention and one of these, the
22 first of these is planting cost and he says that this
23 qualifies as a current expense "If the volume of
24 planting bears a reasonable relation to the volume of
25 cut in the year."

26 He goes on to indicate if planting operations
27 or to the extent that planting operations exceed this
28 volume and are distinguishable as afforestation or
29 reforestation expenditures rather than the replacement
30 of trees being cut, they may be considered capital



1 items and cumulated in the depletion account.

2 Now in the 1957 discussion, which I also
3 refer to, there is a reference to this particular point
4 of planting expense and Mr. Godwin, who is speaking
5 on that particular point is critical of the Department's
6 practice in that regard. He says this system, after
7 describing it, "may be defensible on the grounds of
8 taxation theory but it simply won't work if our
9 objective is to grow more wood, establish more industry,
10 provide more jobs, increase national income, and supply
11 greater tax revenues to all levels of government. We
12 need a principle which would recognize the contribution
13 of those who augment a resource, and which will
14 provide for the right to expense cost of forest
15 establishment, or re-establishment, plus cost of
16 subsequent care, against income from any source".

17 Could you indicate whether, so far as you
18 people are concerned, this is a problem at the present
19 time, a real problem and if so, what you think the
20 solution should be?

21 MR. MAHOOD: We do not regard it as a problem.
22 We think what the administration is now doing is
23 very effective and proper and in general terms, the
24 planting, and so on, which is being done in British
25 Columbia is being done on a contractual obligation
26 with the provincial government and if you do not
27 abide by that contract, you lose your right to the
28 timber and therefore within that context his means of
29 earning income in that year.

30 MR. STEWART: Thank you. Well then the second



1 point on page 218 was that -- these are points he felt
2 deserved special mention. He said "almost all
3 expenditures on roads are capital items eligible for
4 depreciation, but some with a life of a single season
5 or so may qualify as current expense." Now again as
6 regards roads, is there any problem of securing proper
7 allowance at the present time?

8 MR. CHAMBERS: No. We have no problem Mr.
9 Chairman with regard to roads.

10 MR. STEWART: Then his third point relates to
11 certain uncertainties which he indicates then exist
12 as regards the eligibility of outlays as current
13 expenses of earning income when timber properties are
14 not operated for long periods. He indicates that if
15 a property is one of several occupied by the same
16 company, but it is one on which logging operations are
17 not being conducted, the expense of holding the
18 property or the cost of holding the property may be
19 viewed as current expenses since they are part of the
20 overall woods operation of the taxpayer and therefore
21 costs undertaken to produce income. "If the property
22 not being operated is held by a party who conducts
23 no logging operations, the costs may not qualify as
24 current expenses..." although it may be possible to
25 add them to the depreciation account for claiming
26 at a later stage.

27 Now have you any comment on this general
28 question of costs incurred in relation to properties
29 which are not currently being logged, apart from the
30 comment that has already been made with regard to



1 depletion?

2 MR. MAHOOD: I think we have no comment.
3 This is working satisfactorily.

4 MR. CHAMBERS: That remark pertains to the
5 fifties, the early fifties I should imagine. Since that
6 time there has been quite a bit of, in British Columbia
7 at any rate, progress made in sustained yield.

8 MR. STEWART: I would like to read again from
9 the report of the 1957 Conference, that is Mr. Godwin
10 at page 112:

11 "There is also need for a
12 better understanding of how certain
13 costs in connection with forestry
14 operations may be charged for
15 income tax purposes, particularly
16 with respect to outlays for timber
17 ~~and~~ cruise, recurrent inventory surveys
18 and for the preparation and
19 revision of management plans.
20 Present practice is to permit the
21 accumulation of such costs in
22 depletion account with deductible
23 allowance as timber is cut on a
24 'unity of production' basis.
25 The operator cutting on a perpetual
26 yield basis may recover such
27 costs only over very long periods
28 that may extend to fifty years --
29 or more. The law thus places another
30 deterrent on good forest practice."



1 Now are these among the types of things
2 that you mention in your brief and that require further
3 work?

4 MR. CHAMBERS: I think so, yes.

5 MR. MAHOOD: Yes.

6 MR. CHAMBERS: They haven't really cleaned this
7 up yet.

8 MR. STEWART: Well now, if we could move on
9 to a point which is dealt with on page 29 of your
10 brief and I refer to the question of trade promotion
11 in foreign countries, which is dealt with in paragraph
12 5.13 to 5.15 and your basic suggestion is that
13 expenditures in support of trade Associations engaged
14 in forest products promotion outside Canada be allowed
15 at 150 per cent of actual expenditure.

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2 MR. STEWART: Could I ask you in the first
3 place whether expenditures of that nature are presently
4 being allowed on a 100 per cent basis?

5 MR. HOFFMEISTER: Yes, they are.

6 MR. STEWART: So that you are suggesting
7 that the importance of export sales is such that the
8 existing allowance such be increased?

9 MR. HOFFMEISTER: That is right.

10 MR. STEWART: Is there any reason here again
11 for distinguishing between exports sales in this industry
12 and other exports in other industries? Would you extend
13 the principle to other export industries?

14 MR. HOFFMEISTER: In the way of thinking of
15 our own industry primarily, but I think it behooves all
16 industries in Canada to exert every effort in developing
17 markets they already have and pioneering new markets.
18 I think the efforts of the forest industry have not
19 been as great as they should have been in the development
20 of markets such as Japan, the Australian market and
21 Continental Europe.

22 COMMISSIONER WALLS: Is this not meaning that
23 the Federal Government will subsidize one-third of the
24 expenditures of your salesmen going abroad?

25 MR. HOFFMEISTER: Yes, not only a matter
26 of sales -- I don't refer particularly to salesmen going
27 abroad, but to engineers and wood promotional people
28 working these different countries who are, in fact,
29 promoting wood. I am not referring to the fellow going
30 over there to take an order, but rather wood promotion
and market expansion programme.



H21 THE CHAIRMAN: You believe this would
2 increase the expenditures of trade associations which
3 are engaged in these promotions?

4 MR. HOFFMEISTER: Yes, I do.

5 THE CHAIRMAN: Would you put it on for two
6 years and take it off or do you think it is something
7 that should be interminable?

8 MR. HOFFMEISTER: I think it is a continuing
9 problem and there should be the same inducement given to
10 trade promotion as there is, for example, to research.

11 COMMISSIONER PERRY: Do you have associations
12 that are engaged exclusively in promotion outside
13 Canada?

14 MR. HOFFMEISTER: No, as part of their
15 functions. For example, the B.C. Lumber Manufacturers'
16 Association devotes, I should think, 70 odd per cent
17 of its total budget to promotion of timber in different
18 parts of the world. The Canadian Pulp and Paper
19 Association, Caribou, Consolidated Red Cedar -- it
20 doesn't apply in the case of B.C. Loggers' Association.

21 MR. STEWART: There would have to be some
22 test that the activity was foreign exports promotion.

23 MR. HOFFMEISTER: Yes, this relates only
24 to the expenditures undertaken by associations relating
25 to trade promotion. It doesn't take into account
26 prevention programmes and similar items wouldn't come
27 under that recommendation.

28 MR. STEWART: With respect I don't think that
29 is quite what it says. It says "expenses in support
30 of trade associations engaged in forest products promotion



H31 outside Canada".

2 MR. HOFFMEISTER: Yes. Well, I think our
3 intention is as I have described it.

4 MR. STEWART: Yes.

5 THE CHAIRMAN: Do you believe that the
6 reason the United States has, according to the figures
7 I read has knocked the spots off this country in its
8 exports of chemical wood pulp products to European
9 countries, Asia, Africa and Pacific countries is because
10 they are spending more money on promotion?

11 MR. HOFFMEISTER: That enters into it. I
12 think it is not possibly the main factor. I think the
13 reason, my impression is in recent years the United
14 States has developed a position respecting pulp
15 production where they are now able to export some of
16 their goods which were formerly used in their own
17 industry in the United States. They are therefore
18 looking to broaden their markets and are able to compete
19 with us.

20 THE CHAIRMAN: We should be able to compete,
21 should we not, our costs are usually lower than in the
22 United States because our living standard is somewhere
23 around 30 per cent lower. If our costs are not lower,
24 why not?

25 MR. HOFFMEISTER: We pointed out in the brief
26 some of these things that concern us, for example
27 timber depletion and the tax advantages that our
28 principal competitors such as Weyerhaeuser Timber and
29 Georgia Pacific and others have.

30 COMMISSIONER BEAUVAIS: Our wages are lower



H41 in Canada than the United States.

2 MR. HOFFMEISTER: They are competitive with
3 wages paid in the Pacific Northwest. Our wage scales
4 in British Columbia are influenced more by the wage
5 scales in the Pacific Northwest than, for example in
6 Eastern Canada.

7 COMMISSIONER BEAUVAIS: They are higher on
8 the Pacific Coast than in the east.

9 MR. HOFFMEISTER: Yes, that is right.

10 THE CHAIRMAN: Our wage scales in this part
11 of the world are generally 70 per cent comparatively
12 to the U.S. wage scale or 75 per cent. Is that 25 greater
13 than Central Canada?

14 MR. HOFFMEISTER: Yes, we are of course
15 much higher because of the dramatic expansion of pulp
16 production in recent years.

17 MR. MAHOOD: The factor is the wage scale
18 in Central United States is substantially lower.

19 THE CHAIRMAN: Thank you.

20 MR. STEWART: Now, I observe on page 18
21 of your brief, and I refer in particular to paragraph
22 III.2 that you do not believe temporary and selective
23 incentives such as ~~accelerated depreciation~~ which has just
24 been introduced will result in the investment of large
25 capital amounts over the long term. You are suggesting
26 on page 29 an incentive for the export industry.

27 MR. RANKIN: Mr. Commissioner, I think here
28 we have in mind the incentive of the fast write-off such
29 as was brought in in the recent budget of June of
30 this year. We feel, sticking with our own companies that



1 this incentive was a terrific one because we were
2 already engaged in one expansion, our first newsprint
3 machine, and in view of that incentive we immediately
4 stepped phase three -- we always have these expansions
5 planned ahead of time. We immediately threw phase three
6 into action in order to obtain this fast write-off. Had
7 we not had our engineering and planning done we wouldn't
8 be in a position to take advantage of it. We believe
9 that incentive for the fast write-off limited to a two-
10 year period is not significant in the long term. It
11 doesn't motivate to carry out major expansions. That
12 is what we mean by III.2. We think in the long
13 term these selected and temporary incentives are not
14 really of importance. The write-off which you refer
15 to, Mr. Stewart, would be a continuing incentive and
16 as you know to promote, for instance plywood -- we are
17 now entering into plywood, plywood as an industry in
18 Europe and this is a item of major expense and would
19 take three or four years to get into effect.

20 MR. STEWART: Now, I come to the question of
21 protectionist trade policies which you refer to on page
22 9 in paragraph I.13, and then on page 21, at the bottom
23 of page 21 and top of page 22 you are giving an example
24 of the effect of protection, or the tariffs, at any
25 rate on logging equipment. On page 26 in V.2 you urge
26 that the Canadian Government attempt to affect
27 a reduction in the tariffs on capital goods used
28 in your industry. Have you anything that you would like
29 to add verbally on this particular point?

30 MR. HOFFMEISTER: I think not very much,
Mr. Chairman beyond what we have expressed in our brief.



H6 1 I think we made our position quite clear in the brief.
2 If there are some specific questions?

3 COMMISSIONER WALLS: I note that you quote
4 that this is of a type not made in Canada. How much
5 of the apparatus that is used in your industry is of
6 a type not made in Canada?

7 MR. HOFFMEISTER: I think a lot of it.
8 Maybe one of the gentlemen representing the companies
9 could hazard a guess at the percentage, but certainly
10 on a substantial quantity.

11 MR. HODSON: I don't know. I know some of
12 the big paper machines that we are talking about, size
13 and cost, are regarded as being a type not made in
14 Canada. Canada can only produce a type up to a certain
15 speed and trim and size. It would be a very big item
16 for the pulp and paper mills, not made in Canada.

17 COMMISSIONER BEAUVAIS: And electric drills,
18 I don't think they are made here at all.

19 MR. MAHOOD: No tractors made in Canada
20 in a class suitable for the forest operation in British
21 Columbia.

22 THE CHAIRMAN: Why duty if it not competing
23 with the Canadian manufacturer?

24 MR. MAHOOD: There is considerable difficulty
25 in the area of duty. To illustrate an example I am
26 associated with a company that bought three service
H2 27 tank retriever machines just this spring, mounted machines
28 to use for fire protection purposes. There has never
29 been such a machine in Canada and probably never will
30 be and it is called a class and kind made in Canada,



H7 1 allegedly competitive with the bombardier snowmobile which
2 is straining a lot of points. This can add three times
3 to the cost.

4 THE CHAIRMAN: In view of that you must have
5 asked the question I have just asked many times. I
6 am curious as to why there is a duty in those circum-
7 stances.

8 MR. MAHOOD: I think we are rather protection-
9 istic in this country.

10 THE CHAIRMAN: What are we protecting our-
11 selves from?

12 MR. HOFFMEISTER: We object to it.

13 COMMISSIONER WALLS: Is it not because the
14 equipment is not specified in The Tariff Act and comes
15 under NOP and it is very hard to give a class and kind
16 classification.

17 THE CHAIRMAN: What does NOP stand for?

18 COMMISSIONER WALLS: Not otherwise mentioned --
19 I am not sure of the "P".

20 MR. MAHOOD: Provided.

21 MR. STEWART: Coming back to the paper machine,
22 Mr. Hodson, is it not the case in the last few years the
23 tariff was amended so as to keep the paper machines of
24 a class or kind made in Canada?

25 MR. CHAMBERS: There was an amendment after
26 this decision was made by the Tariff Board, an amendment
27 was made to specify, at least mentioning specifically
28 that all pulp and paper machines were to be regarded
29 as of a kind made in Canada. That is a recent
30 amendment.



H8 1 THE CHAIRMAN: This isn't the Customs Board,
2 thank heavens.

3 COMMISSIONER GRANT: Mr. Stewart, speaking
4 of increased costs in regard to high duty, perhaps I
5 might be permitted to observe that I was particularly
6 impressed by the grade of paper on which this brief was
7 printed and on investigation I looked at the water mark
8 and it would indicate to me, perhaps, it was made in
9 the United States.

10 MR. HOFFMEISTER: Mr. Chairman, I think even
11 at that it might be consistent with our policy of freedom
12 of trade, that of the forest industry of British
13 Columbia.

14 MR. CHAMBERS: He will hear from us in this
15 regard.

16 MR. STEWART: Now, Mr. Chairman, moving on
17 to another point that is dealt with on page 26.

18 THE CHAIRMAN: Page what?

19 MR. STEWART: Page 26. This has to do with
20 the amount of foreign capital in this country and in
21 paragraph V.3 it is suggested that there is a continuing
22 need for foreign capital and that these gentlemen
23 don't consider the international flow of capital should
24 be impeded. This paragraph is a very current problem
25 in this country. May I ask if you could give us some
26 idea as to what percentage of the equities of the
27 companies in your industry either in British Columbia
28 or in the country as a whole are held outside Canada?

29 MR. HOFFMEISTER: Mr. Hodson of Crown
30 Zellerbach I think could speak to this point in view of



H91 the position of his company between Canada and the
2 United States.

3 MR. HODSON: To answer your question, Mr.
4 Stewart, I don't think we could answer it reliably. We
5 haven't got -- we haven't calculated the percentage
6 of equity interest, but when referring to the U.S.
7 ownership in B.C., in answering a question on a guesstimate
8 basis and subject to correction from my associates I
9 would assume that of the industry in B.C. in the coastal
10 section of the industry there would probably be something
11 like 50 per cent interest, maybe that is a little high,
12 sir.

13 MR. STEWART: In the United States?

14 MR. HODSON: Yes, and getting into the
15 interior the foreign interest would appear to be much
16 heavier and probably get up to about 75 per cent.

17 MR. MAHOOD: That would be a little high.
18 You really can't get it because in many instances
19 wholesalers and so on in the United States are financing
20 the operations in the sense of supplying working
21 capital.

22 MR. HOFFMEISTER: The matter of control
23 comes into it there, Mr. Chairman. A lot of the companies
24 in the interior, small saw mill companies are controlled
25 through sales contracts and that sort of thing. I would
26 be inclined to estimate that 50 per cent on the coast
27 was a bit too high. I think it would be possibly closer
28 to 45 per cent, a little lower, and the estimate in the
29 interior is almost impossible to arrive at.

30 MR. STEWART: Also in paragraph V.3 you



H101 suggest withholding taxes are an element to be considered
2 here. Have you any comments you would like to make on
3 the recent budgetary proposals in the withholding tax
4 area?

5 MR. HODSON: Yes, I could, and I think it
6 might be of interest to the Commission and my comments
7 would be partly based on experience from my own company
8 which is a subsidiary of a U.S. company.

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1 Under the budget provisions of course to the
2 extent that Canadian ownership is less than 25 per cent,
3 the withholding tax is now 15 per cent. It will then
4 go up to 20 per cent, if that situation is not right,
5 it will drop to 10 per cent, so that currently with
6 a 15 per cent withholding tax levied on dividends to
7 non residents, the owners, I will relate this again
8 to the United States, the effective rate of tax in
9 Canada for Canadian profits based on U.S. ownership
10 becomes $57\frac{1}{2}$ per cent. That is the 50 per cent
11 corporation tax plus half of the 15 per cent withholding
12 tax which is left after the corporation tax so as
13 against a $57\frac{1}{2}$ per cent effective tax on Canadian
14 profits, the U.S. effective rate, as you know, is 52
15 per cent so in this general situation, and this would
16 apply to all industry owned by the United States, there
17 is a difference of $5\frac{1}{2}$ points.

18 Another way of saying that would be that the
19 U.S. owner would be retaining profits, if its operation
20 was in Canada, of $42\frac{1}{2}$ per cent, whereas if those
21 operations were located in the States, he would be
22 retaining 48 per cent.

23 THE CHAIRMAN: Shouldn't you correct that and
24 say if his operation were in British Columbia?

25 MR. CHAMBERS: Yes.

26 THE CHAIRMAN: If his operation were in
27 Ontario, I think it would be $59\frac{1}{2}$ per cent and he would
28 be retaining $40\frac{1}{2}$ per cent.

29 MR. HODSON: It is not quite correct. In
30 British Columbia that difference would be-- the effective



1 rate of the Canadian tax would be still somewhat higher
2 by about $1\frac{1}{2}$ per cent because there is a remnant of
3 the British Columbia logging tax which I have not
4 included in my quote so that that is the general
5 situation. What we are saying is that the U.S. owner
6 by locating in Canada will be receiving 6 per cent
7 less profit than he would be receiving if that plant
8 had been located in the U.S.

9 THE CHAIRMAN: Looking at the tax factor
10 alone?

11 MR. HODSON: By reason of the tax factor, That
12 certainly would be an element in the decision to
13 decide where to locate this plant because there are
14 other countries or even in their own country there
15 are -- I know there are other factors that enter into
16 it, timber resources, labour rates, but this would
17 become a consideration.

18 As far as the situation in the forest
19 industry is concerned, the variation is much more
20 significant of course. While you would have this $57\frac{1}{2}$
21 per cent effective rate in Canada, plus the logging
22 tax in British Columbia, by reason of the special
23 depletion allowance which we have been talking about
24 this morning, as far as the parent -- my company is
25 concerned, their effective rate in 1952 was 42 per
26 cent so that if there was any decision to be made on
27 a financial basis, they would be looking at it in
28 terms of realizing if the plant were located in the
29 United States they would be retaining 58 per cent of
30 profits. If it were to be located in Canada, or



1 British Columbia, they would be retaining 42 per cent
2 or less and that represents a 26 per cent lower profit
3 by location in Canada, assuming the same profit margin
4 is met and I submit that becomes a very serious question
5 and could be quite a factor in making that decision as
6 to whether to come into Canada or not.

7 MR. STEWART: I take it Mr. Hodson that it
8 follows from what you say if the Canadian rate were to
9 increase to 20 per cent the problem is that much more
10 difficult?

11 MR. HODSON: That is correct. Not only that,
12 I don't know what the current status is in the States
13 but I think Mr. Kennedy has or is on the point of
14 reducing the income tax rate in the States and of course
15 it will come down from 52 per cent to 48 and that
16 action is going to make this difference more acute.

17 THE CHAIRMAN: Mr. Hodson there is one matter
18 on the other side of this, I think. In the withholding
19 tax there is the opportunity in the States for the
20 pooling of all withholding taxes and I understand
21 perhaps it is all taxes, not just withholding so that
22 if one is taxed in one country at a low rate, he may
23 average that with the higher rate which you refer to
24 as being in Canada.

25 MR. HODSON: That is correct. I think that,
26 has been a recent amendment in the U.S. situation and
27 the profits from foreign operations can be pooled and
28 that could, probably on a temporary basis, grant them
29 some relief because I think there has been quite a
30 bit of concern in the Government circles in the United



1 States and it could very well be that with that avenue
2 that they have, this would be closed.

3 MR. STEWART: Mr. Hodson your figures, of course,
4 are on the assumption that all the earnings of the
5 Canadian subsidiary are distributed by way of
6 dividends in the years that you are concerned with?

7 MR. HODSON: That is correct, yes.

8 MR. STEWART: If a particular parent happens
9 to be in a position that it can leave earnings in
10 Canada for expansion or other purposes, then the with-
11 holding tax does not enter into it until the time of
12 distribution occurs.

13 MR. HODSON: I was quoting this on the basis
14 of what would be important factors in decision making
15 to locate in Canada and obviously that decision making
16 would be on a long term basis. It would certainly
17 contemplate, I would suggest, dividends.

18 THE CHAIRMAN: You believe that the parent
19 company in making that decision to locate in Canada or
20 the United States actually compares the rate of, as
21 you say, 57½ per cent? You think that is what they
22 look at, do you?

23 MR. HODSON: I think that is one aspect they
24 most certainly look at. It is not the only aspect but
25 I am suggesting that in the forest industry, because
26 of the 26 per cent differential, it is given serious
27 consideration.

28 I know, if I may quote it, when we built our
29 mill, which was quite a substantial division on Vancouver
30 Island, it cost about \$55 million, and at that time the



1 rate of withholding tax was only 5 per cent, serious
2 consideration was given to this because there were some
3 suggestions that this might be going up and it was
4 touch and go for quite a bit of time as to whether that
5 location was the most advisable. There were other
6 locations but finally the decision was made but to
7 answer your question by a specific illustration, it
8 was very seriously considered.

9 THE CHAIRMAN: Now one more question that I
10 have on this particular point. I think it is important
11 we get some views of what the prospective investor
12 in this country considers. You point out that revaluation
13 will bring the U.S. rate down considerably and I
14 would assume in the year in which revaluation occurs,
15 because I don't suppose they would revalue every year,
16 whenever they revalue, they pay a 25 per cent capital
17 gains tax, or maybe the rate in that year would go up,
18 probably about 50 per cent. Is that right?

19 MR. HODSON: As I understand the U.S. depletion
20 system, they pay a 25 per cent rate each year on the
21 revaluation of the timber cut in that year. U
22 There would be no violent fluctuation in the effective
23 rate because of what is known as the Bailly amendment,
24 unless there was a substantial capital outside the timber
25 section which had an effect.

26 THE CHAIRMAN: The figure you are quoting for
27 the United States effective rate of tax includes that
28 capital gains tax?

29 MR. HODSON: Yes. This is after a provision
30 of 25 per cent capital gains to reduce the rate in our
forest in 1962 down to 42 that we quoted this morning



1 subject to the fact we do not exactly know how much
2 is your depletion, 35 per cent, 27 per cent ---

3 COMMISSIONER WALLS: Did I understand when
4 you were outlining the various taxes that you face
5 that you mentioned the 10 per cent provincial logging
6 tax amongst those?

7 MR. HODSON: Yes.

8 COMMISSIONER WALLS: Does that not today
9 offset both Federal and Provincial to the extent of
10 9 per cent?

11 MR. HODSON: We have a 15 per cent residue
12 which is still a burden in British Columbia. The
13 British Columbia Provincial Government retained 9/50th
14 tax.

15 COMMISSIONER WALLS: It means really that
16 9 per cent out of the total 10 per cent has been
17 relieved, has been offset?

18 MR. CHAMBERS: No, that is not quite right.
19 The Federal Government took two-thirds relief, but
20 the Provincial Government did not pick the other
21 one-third up. They picked only 18 per cent, 9/50ths,
22 the relationship of the general tax; that left us
23 with a small residue of approximately 15.

24 MR. STEWART: You have indicated in British
25 Columbia somewhere between 45 per cent and 75 per cent
26 of the companies may be subject to foreign control
27 through share ownership. The 45 per cent applies to
28 the coastal region and the 75 per cent to the interior.
29 In the normal case where there is foreign control is
30 it 100 per cent ownership or virtually 100 per cent



1 ownership or is the normal case one where there is
2 Canadian participation of at least 25 per cent?

3 MR. HOFFMEISTER: We haven't precise figures
4 with which to answer that question.

5 MR. STEWART: As far as the major companies
6 are concerned, are there any which are subject to
7 foreign control in which there is a 25 per cent
8 Canadian participation at the moment?

9 MR. RANKIN: We could state a few cases,
10 Westminster Paper is 52 per cent owned, and therefore
11 effectively controlled in the States.

12 B.C. Forest Products was a wholly owned
13 Canadian company until 1956 when, in order to achieve
14 a market in the States for their entry in the pulp
15 field, they sold one million treasury shares which
16 gave foreign, U.S. company a 29 per cent interest and
17 today, as a result of that, other Americans purchased
18 on the strength of the Scott Paper case and they also
19 came in and there are a lot of small U.S. shareholders.
20 We are probably up around 50 per cent U.S. shareholders
21 but still Canadian controlled and dominated. When I
22 say that, ten out of fourteen on the Board are
23 Canadians.

24 MR. STEWART: I am thinking, of course, of
25 the new rule relating to the withholding tax rate.
26 What I am really getting at: Are there a good many
27 companies in British Columbia which will now be subject
28 to the higher rate of withholding tax unless they
29 increase their Canadian content?

30 MR. HODSON: I don't know how you can answer



1 that. Crown Zellerbach would, of course, be 95 per
2 cent U.S. owned, and I don't know.

3 MR. MAHOOD: I would say in the interior this
4 would be a significant problem. So many of these
5 companies are wholly controlled by the U.S. and if
6 they withdraw from there or stagnate, and so on, so
7 does the market because those people came from there,
8 made their investment to acquire land. We have made
9 this point that market and capital go together. If one
10 is restricted, the other tends to be restricted.

11 MR. STEWART: But the situation is somewhat
12 different in the coastal area?

13 MR. MAHOOD: The coastal area is dominated by
14 five or six companies. I think two or three are wholly
15 owned or almost wholly owned or foreign controlled.
16 East Asiatic Canada, Crown Zellerbach, which is
17 represented here.

18 There is new British Capital that has just
19 come in in British Columbia, bringing with it a market,
20 of course.

21 MR. HODSON: I am glad you indicated in your
22 comment that you felt this was an important point
23 because I have put down my comments more specifically
24 and more elaborately in a memorandum. If you would
25 like to have me leave this with the Secretary of the
26 Commission, I will be glad to.

27 THE CHAIRMAN: Thank you very much indeed.
28 We would like to have that.

29 MR. STEWART: Now if we could move, for a
30 moment, to the question of provincial taxes and I refer,



1 of course, to B.C. taxes primarily and on page 8 of
2 your brief, in paragraph 1.11 and in Exhibit D which is
3 referred to there, you refer to the upward trend of
4 provincial levies of one kind or another, and then on
5 pages 16 and 17 you refer to provincial forest policies
6 in paragraphs 11.22 to 11.25 and on page 21 at the
7 top of the page you refer to annual ad valorem charges
8 which your industry is subject to. Reference has also
9 been made to logging taxes and while, as Mr. Hodson
10 has indicated this is not now deductible in British
11 Columbia entirely it has become deductible as to
12 approximately 85 per cent is it?

13 MR. CHAMBERS: Yes. We figure it at about
14 15 per cent. left.

15 MR. STEWART: Do you consider that the
16 Provincial taxes and charges which your industry pays
17 in British Columbia are more onerous than -- let's
18 leave logging taxes out of this, because it applies
19 only in the two provinces, but leaving logging taxes
20 aside, do you consider that provincial taxes and
21 levies you pay in British Columbia are more onerous
22 than the provincial taxes in other provinces?

23 MR. MAHOOD: I think you can only answer that
24 question in general terms and the answer would be yes
25 in respect to the charges for booming grounds, roads,
26 the taxes applied to pulp mills, roads used for
27 logging and in this whole general area and in the
28 field of stumpage, where the stumpage formula in
29 itself is set out to be income tax in advance of
30 cutting. It's an estimated income tax.



1 COMMISSIONER BEAUVAIS: What is the rate for
2 the stumpage?

3 MR. MAHOOD: It is a sliding scale arrangement
4 where it is related to the selling price of lumber,
5 where an estimate is made of the cost of production and
6 stumpage prices determined, which in approximate terms
7 takes 50 per cent of the margin between cost and
8 selling price, of the estimated cost and selling price
9 and any increase in price thereafter the Crown takes
10 80, 90 cents on every dollar increase in price. There
11 is nothing like it elsewhere in Canada.

12 MR. STEWART: As far as the provincial sales
13 taxes are concerned, is it a fact that British Columbia
14 is one of only four provinces in which machinery and
15 apparatus is subject to provincial sales tax?
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RPS 1 MR. MAHOOD: Yes, it is also permitted for
2 municipal taxes.

3 MR. STEWART: Well, Mr. Chairman, I am not
4 sure it is necessary to pursue the question of prov-
5 incial taxation further. It isn't directly within the
6 purview of this Commission. We are interested in the
7 overall incidence of taxation but we are making
8 recommendations to the Federal Government.

9 COMMISSIONER WALLS: Except, Mr. Stewart,
10 to the extent that where these extra taxes have been
11 carried provincially are the reasons for a provincial
12 group asking the Federal tax be ameliorated to make
13 up for it.

14 MR. STEWART: Quite so. At the concluding
15 portion of your brief on pages 29 to 31 you make a
16 suggestion which bears on this whole question of the
17 overall incidence of taxation. You suggest that the
18 Federal and Provincial authorities should co-ordinate
19 their taxation as far as the resources industries are
20 concerned and you suggest in particular that they should
21 withdraw their taxes which inhibit economic growth of
22 the resource industries. Now, I would just like to be
23 sure I know which of the taxes dealt with in your brief
24 you bring within that category mentioned at the top
25 of page 31. I take it that sales tax would be a
26 case in point to the extent that you have expressed
27 criticism of them.

28 MR. MAHOOD: Yes.

29 MR. STEWART: What other specific taxes
30 have you in mind at the top of page 31?



J2 1 MR. MAHOOD: All these taxes which have
2 been discussed as taxes on capital, timber taxes assessed
3 on the value of the inventory being held, paid annually,
4 taxes on roads and works which are investment. We have
5 in mind the fact only about one-half of the Province is
6 now developed and that the higher these direct rates
7 on investment and on cost of production, machinery and sup-
8 plies, the higher the effect that brings the economic line fur-
ther and further south. These taxes apply, the tougher the
10 area the more cost of production the higher incidence
11 of tax.

12 MR. STEWART: Do you consider that taxes
13 such as sales tax on this production machinery and so
14 on are a serious factor in inhibiting economic growth
15 as, for example, is the present level of corporate income
16 tax? If there were a choice would you pump for a
17 reduction of the general corporate tax rate or for
18 relief in some of these other fields?

19 MR. HOFFMEISTER: Mr. Stewart, we wouldn't
20 certainly turn our noses up at any suggestion to reduce
21 the rate of corporate tax. We would like to see both
22 happen. We feel that the Commission will be considering
23 the aspects of corporation tax levels. In pointing out
24 the affect of sales tax and the other taxes with which
25 we have dealt in the brief we feel that these taxes
26 indeed are an inhibiting factor in the development of
27 our forest resources in British Columbia. I might illus-
28 trate it this way, that currently most of the development
29 of our forest resources in British Columbia has been
30 in the coastal region and in certain specific areas of



J31 the interior, principally the southern half of the
2 Province. We have had from time to time groups coming
3 into the Province to examine the prospects of pulp and
4 paper or a general integrated development and currently
5 we have, I think, four or five groups investing the
6 possibilities of forest industry development -- put it
7 another way, at a certain point it becomes practical
8 for pulp, for example, previous in the Kitimat area to
9 be brought into production. Until that point is reached
10 then it doesn't make any sense for people to come in
11 with a new industry until existing companies such as
12 companies represented at this table today have been
13 fully developed and every time anything happens that
14 inhibits their advance to this situation, to the extent
15 of \$1 a ton or \$2 a thousand, whatever it may be, it
16 tends to slow down the development of our forest
17 resources and it is a fact that based on today's invent-
18 ory of British Columbia we only utilize less than 50
19 per cent of the annual allowable, so we have a great
20 distance to go. Our preoccupation at this hearing is
21 principally in trying to remove these factors that are
22 interfering with the development of our resources and
23 are threatening our competitive position.

24 MR. STEWART: So that it comes down to this,
25 if your taxation could be reduced, as you indicate on
26 page 12 you may be able to increase production through
27 development areas which until now have not been possible
28 to develop. You will be able, as you indicate on page
29 13 to develop the necessary additional market and that
30 has also been indicated this morning and, at least implied



J41 in the brief you will be able attract additional invest-
2 ment capital. So far as prices are concerned, prices
3 of the products, I suppose it comes down to this: that
4 if taxes are reduced you will at least be more competitive
5 in the markets that you seek to serve.

6 MR. HOFFMEISTER: Yes, that is right. I
7 think it might be worth pointing out the other factors
8 that enter into this situation, the competitive situation,
9 such things as the spectacular development of forestry
10 practice in the southern pine region in the United
11 States where they have the growing cycle of their timber
12 to a point where it has a good deal enhanced the growing
13 capacity of their forests. The same thing is going on
14 in Australia, New Zealand and some parts of South America
15 where special woods have been brought in and they are
16 now developing large forest areas which in turn is
17 tending to make them self-sufficient respecting forest
18 products. Australia and New Zealand are getting to the
19 point they are competing with us in Japan with some
20 groups of pulp and paper and it won't be long before
21 they are even exporting Douglas Fir to some of the south
22 countries in competition with us. This is another trend
23 that is applying around the world which is a very
24 serious factor in our competitive situation. The other
25 factors, such as the one I illustrate may make it
26 necessary for us to be even more conscious of the subject
27 of being competitive than we have been so far.

28 THE CHAIRMAN: I didn't quite understand
29 this answer. I want to explore it a little further. If
30 you anticipate taxes be reduced 28, 35, 42, whatever is the



1 equivalent rate of tax for the chief competitor, the
2 United States, you have suggested, Mr. Stewart, they
3 would be more competitive. Does that mean they would
4 be able to reduce prices to get into markets that are
5 now closed to them such as Japan. I would be very
6 doubtful whether a reduction in corporation tax is going
7 to do very much towards enabling them to reduce the
8 prices at which they sell their goods. I would be
9 inclined to think it would operate more on the other
10 phase, mainly increase productivity and attract further
11 investment, am I not right?

12 MR. HOFFMEISTER: Yes.

13 MR. CHAMBERS: Yes.

14 THE CHAIRMAN: It wouldn't affect your
15 selling price.

16 MR. MAHOOD: It wouldn't affect the selling
17 price at all. We don't set our selling price. We are
18 governed by the world price.

19 THE CHAIRMAN: I never know what is meant
20 by world price. You are competing with other countries
21 to get a certain price -- does that mean nobody will
22 undersell anybody else because there is a world price?

23 MR. HOFFMEISTER: To try and illustrate my
24 point in selling goods to the United Kingdom our largest
25 competitor is basically Scandinavia. We may put up the
26 price of hemlock \$2 a thousand and the British will say
27 that is too bad, chaps, we can still buy Scandinavian
28 at \$1 standard less or whatever it happens to be and
29 therefore we have to conform to the Scandinavian or
30 Russian or whatever price it is or we don't sell.



J6 1 THE CHAIRMAN: Why don't you knock a dollar
2 off instead of \$2 on?

3 MR. HOFFMEISTER: There comes a point where
4 there isn't a dollar to be knocked off without getting
5 into trouble out here. We are doing everything we can
6 to expand our market in the United Kingdom. This
7 delegation that is going over next week is going for the
8 prime purpose of establishing frame construction
9 so we can get our two-inch dimension into the United
10 Kingdom in quantity and give us another market besides
11 the United States, quantity market for our dimension in
12 case a situation should develop such as the serious
13 difficulties in 1932.

14 THE CHAIRMAN: There must be a little bit
15 of negotiation on price. Everybody doesn't accept
16 everybody else's price and say that is the end of it.
17 There must be some finesse with regard to quotation.

18 MR. HOFFMEISTER: The law of supply and
19 demand is basically the thing. If the demand of the
20 United Kingdom becomes much greater than the Scandinavians
J2 21 are able to supply then, of course, we are in a position
22 to take advantage of it and we can get a little bit
23 more from our lumber, but as long as they are able to
24 make the supply we have no alternative but to meet
25 their price.

26 COMMISSIONER WALLS: This matter of
27 world price doesn't mean there is a uniform world price
28 F.O.B. country of delivery. You negotiate in various
29 areas for a competitive price.

30 COMMISSIONER GRANT: Your market place is the



J7 1 the world.

2 THE CHAIRMAN: If that is the case, going
3 back to where we came in, if these taxes are reduced,
4 are you not in a better negotiating position with regard
5 to price? Could you not when you go and meet your
6 competitors put in bids which are otherwise more favour-
7 able than you would otherwise do?

8 MR. HOFFMEISTER: We definitely are in an
9 improved condition any time we can reduce our cost,
10 regardless of whether it is a reduction in taxes or a
11 reduction in wages or in any other cost, it improves
12 our competitive position.

13 THE CHAIRMAN: If income tax were cut down
14 you might be able to improve the price which you are
15 now quoting so as to increase your sales? I don't mean
16 there is going to be a flat change in price across the
17 board, but I would assume that it would put you in a
18 better position to negotiate a price, am I right?

19 MR. HOFFMEISTER: That is right.

20 MR. STEWART: Mr. Chairman, I am a little
21 at sea here at the moment because a couple of moments
22 ago I understood these gentlemen to say somewhat
23 categorically that a reduction of taxes would not be
24 passed on in any reduced price, that it would result
25 in increase of profit and make the industry more attract-
26 ive to other investors. Now the suggestion is that this
27 world price might be affected after all. I am not sure
28 which is paramount.

29 MR. HOFFMEISTER: I don't think it is neces-
30 sary for us to have a caucus. I don't think there is any



J8 1 question about it, but a reduction in tax would
2 certainly put us in a better competitive position any-
3 way one wishes to look at it.

4 THE CHAIRMAN: This is a very important
5 matter for this Commission. People are coming before
6 us and saying if we are to do better in the world market
7 reduce our corporation tax. I am very curious as to
8 whether a reduction in the corporation tax would enable
9 Canadian industry to do better in its quotations or
10 merely work the other way and attract more capital, improve
11 facilities and thus reduce costs. There are two fronts.
12 I would like to know whether both are open or just one.
13 It may be a difficult question to answer. Maybe there
14 isn't any final answer. If you would care to consider
15 it at your convenience at any time and have any views
16 to express as it affects you people we would be very
17 glad to hear it.

18 MR. HOFFMEISTER: We would be glad to do it,
19 sir.

20 THE CHAIRMAN: I am prepared to leave it at
21 that point. I don't know whether the other Commissioners
22 are. I think it is too tough a one to beat around now.

23 COMMISSIONER WALLS: We will let them have
24 their caucus.

25 MR. STEWART: Those are all my questions.

26 THE CHAIRMAN: This has been a very interest-
27 ing morning for us, Mr. Hoffmeister and gentlemen. Thank
28 you so much for your excellent submission and for
29 coming across the country and putting in a full
30 morning. I understand you are going on this afternoon.



J9 1 We are extremely grateful. We need all the help we can
2 get and we would like more industries to come before us
3 and tell us about their problems. We are doing all
4 right, but this is the way to get information. Thank
5 you very much indeed.

6 MR. HOFFMEISTER: May I on behalf of my
7 colleagues and myself express our appreciation for the
8 courtesies that have been extended to us by you and
9 your colleagues this morning. We certainly have been
10 given every opportunity to express the views of the
11 industry and we are, indeed, grateful.

12 I would also like to express our thanks to
13 your staff who have been most helpful all the way through
14 in working out answers to the questionnaires and giving
15 us help and advice right along the line. I think the
16 fact that we did come down, shall we say, in great force,
17 is an indication of our interest in the problem and
18 our desire to be as helpful as we can in providing answers
19 to any questions that might be raised.

20 From here in until the task of the Commission
21 has been completed we are available to supply and would
22 be glad to supply any answer or information to your
23 staff on any subject, whether contained in our brief
24 or not, any subject of general interest that may develop.

25 THE CHAIRMAN: Thank you very much. It is
26 very good of you.

27 We will stand over until a week from Monday,
28 October 28th at 9:30 in this room.

29
30 ---WHEREUPON THE HEARING ADJOURNED UNTIL 9:30 A.M.,
ON MONDAY, THE 28th DAY OF OCTOBER, 1963.

ROYAL COMMISSION

ON

TAXATION

HEARINGS

HELD AT
OTTAWA

ONT.

VOLUME No.:

57

DATE:

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1
2 ROYAL COMMISSION ON TAXATION

3 Hearing held in the Centre Court
4 Room, Exchequer Court of Canada,
5 Supreme Court Building, Wellington
6 Street, Ottawa, on Monday, the
7 28th day of October, 1963.

8 COMMISSION :

9 MR. KENNETH LeM. CARTER -- Chairman

10 MR. J. HARVEY PERRY

11 MR. A. EMILE BEAUVAIS

12 MR. DONALD G. GRANT

13 MRS. S.M. MILNE

14 MR. CHARLES WALLS

15
16 LEGAL ADVISER:

17 MR. J.L. STEWART, Q.C.

18
19 RESEARCH DIRECTOR:

20 PROF. D.G. HARTLE

21
22 SECRETARY:

23 MR. G.L. BENNETT

24
25 * * * * *



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* * * * *



Ottawa, Ontario

Monday

4348

October 28th, 1963

/RPS 1 ---ON COMMENCING AT 9:30 A.M.

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THE CHAIRMAN: Well Mr. Secretary we might as well start.

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I would like to enter this brief into the record now as Exhibit 231.

12

13

---EXHIBIT NO. 231:

Brief of the Canadian Owners and Pilots Association, Ottawa.

14

15

SUBMISSION OF

16

THE CANADIAN OWNERS AND PILOTS ASSOCIATION

17

Appearance: Mr. W. Peppler

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THE CHAIRMAN: Thank you. Good morning Mr. Peppler. We have read your submission with interest and we will have some questions to put to you. Before we do, would you like to tell us a little more about your Association? The Canadian Owners and Pilots Association. You have got quite a few members, I assume. Are they mostly individuals or are they corporate members? You might care to enlarge on it a little bit.

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MR. PEPPLER: Thank you sir. I am manager of the Canadian Owners and Pilots Association which has five thousand members, approximately, right now. All of our members are air pilots. The majority of them are also aircraft owners. We are a national association



1 and the main purpose of having an association is in order
2 to make representations to various Government Departments
3 in order to have legislation changed which will promote
4 the usefulness of private aircraft.

5 THE CHAIRMAN: Don't stand unless you care to
6 do so; whichever you wish.

7 MR. PEPPLER: Thank you. I would think that
8 in the highlights of the brief that I could summarize
9 by just reading two paragraphs, paragraphs 14 and 15:

10 "14) Private aircraft used in
11 "businesses permit executives to make more
12 "business calls in a given time. At a time
13 "when an executive's time is worth more than
14 "ever before, private aircraft permit business
15 "men to utilize their time to greater advantage.
16 "In this connection many executives,
17 "salesmen and other businessmen desire to
18 "substitute a private aircraft for an
19 "automobile.

20 "15) 'Whereas the appropriate Income
21 "Tax Act section permits the users of automob
22 "iles for business purposes to claim capital
23 "cost depreciation, the existing law does
24 "not permit the person who uses a private
25 "aircraft as a substitute for the auto-
26 "mobile, in the case where he has granted an
27 "allowable capital cost allowance for his auto
28 "mobile, to claim capital cost allowance
29 "for his aircraft. This legislation should
30 "be changed by adding the words 'and/or Aircraft'



1 "after the word automobile wherever it appears
2 "in the Act."

3 Now I think that this is pretty well self-
4 explanatory. We have several members who have found that
5 it was more advantageous for them to use aircraft than
6 an automobile.

7 Not long ago I was at the Toronto Island
8 Airport, just to give you an example, waiting for a
9 ferry to cross over to the mainland with another gentle-
10 man. We got talking. This man was over 40 years of
11 age. He was a mechanical engineer for a company which
12 makes gears. He had to learn to fly an aircraft and
13 to fly his aircraft even though he was over 40 years of
14 age just in order to beat his competitors.

15 He made calls at Cleveland, Erie, Buffalo,
16 Oshawa, Brockville, Belleville, Kingston, Peterborough,
17 the sort of circuit which is not used by airlines.

18 He was working for another company 10 years
19 ago. He was doing his rounds by driving. However, he
20 found that by using his own private aircraft he was able
21 to produce far more work in a lesser time and, therefore,
22 the aircraft was a decided advantage to him over the
23 automobile and whereas he could claim capital cost
24 allowance for his automobile before, the existing law
25 did not permit him to claim capital cost allowance for
26 his aircraft.

27 Now I mentioned before we represent five
28 thousand aircraft owners and pilots but we have other
29 people coming to us as an association asking us if we
30 cannot do something about this situation and I have a



1 letter here from Gordon G. Collins and Company, certified
2 public accountants, Toronto. I won't mention the man
3 concerned about it, but I will read part of his letter to
4 you:

5 "As you point out in your letter,
6 "capital cost allowance on aircraft is an allowable
7 "item if the owner is a business i.e. company
8 "owned aircraft and aircraft owned by prop-
9 "rietorship or partnership business. In
10 "Mr. case, however, his
11 "corporation did not own the aircraft, he
12 "owned it personally, and we attempted to
13 "claim capital cost allowance as an
14 "expense against the commission income that
15 "he earned as an employee of his own
16 "company. To the salaried or commissioned
17 "employee, apparently the government is allow-
18 "ing automobile capital cost allowance only.

19 "The obvious solution is to have the
20 "corporation own the aircraft. This however
21 "would present problems other than those con-
22 "cerning income tax. To obviate all problems
23 "we have decided to have Mr.
24 "receive from his corporation a rent for the
25 "use of the airplane. He will then be in the
26 "business of renting aircraft and we may
27 "then legitimately claim capital cost
28 "allowance under the provisions of the Act
29 "as it now stands. While this solves Mr.
30 " 's problem, it of course does



1 "not solve the problems of those
2 "individuals who do not own a corporation and
3 "are not in the position to arrange their
4 "affairs accordingly.

5 "We wish you every success in having
6 "the Act changed to eliminate this clause, which
7 "makes the personal ownership of aircraft
8 "prohibitive for commission salesmen from
9 "an income tax standpoint.

10 "Yours very truly,

11 "Gordon G. Collins & Co."
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1 Here is just a typical case where another
2 group has come to us. They see the logic in having this
3 changed and ask us if we cannot help to do it.

4 We also notice that because the Act does
5 not permit what we are after at the present time, you
6 find companies trying to see how they can get around
7 this in a certain way and here is a case where they
8 decided one man has to go into the business of renting
9 airplanes just to get around the existing laws so he
10 can do what he would like to do.

11 I would like to say at this time, if I may,
12 that the entire Income Tax Act structure seems to be so
13 very firm, if I may use that word. It seems to me where
14 a principle is well-established, and by "principle" here
15 I mean permitting a man who must use a certain vehicle
16 to help earn income, when that principle is established
17 that he can claim capital cost allowance, you would think
18 that the application of that principle could be made
19 without going through a lot of effort. I can assure
20 you this is not the case.

21 We have appealed to the Minister of Finance.
22 We have talked with the Director of Taxation. I personally
23 had a meeting with them. They are always very sympathetic
24 but over a number of years we still have not got what
25 we are after and other businessmen I have spoken to about
26 this, they cannot understand it because the principle
27 is established.

28 It's only the application of the principle.
29 Who knows maybe there are people with motorcycles, maybe
30 people with boats who also need this in order to help earn



1 income and if the Act is going to be hard to amend, as
2 we have discovered that it is, it seems that in the years
3 ahead a lot of people with sound reasons why they should
4 be able to claim capital cost allowance, are going to
5 have an awful time and I would, therefore, hope that it
6 would be within the terms of reference of the Royal
7 Commission on Taxation that it could take this latter
8 part into effect for the good of all. That is does seem
9 to be too bad in this country where the application of
10 an established principle is so difficult to put into
11 effect.

12 THE CHAIRMAN: Thank you Mr. Peppler. Now
13 if we may we would like to ask you a few questions about
14 this. Your request is perfectly easy to understand but
15 I would like to know more about its application. I think,
16 as you are aware, the Income Tax Act does not really
17 succeed in making all expenses of earning a living
18 deductible in respect to employed people. There have
19 been certain additions made to the Act so as to provide
20 more equity in this direction, but I do not think -- you
21 suggest the Act is complete with regard to people who
22 are employed. You direct this to people who, apparently,
23 own their own plane and they are employed people and in
24 order to earn their living you say that they must use
25 their planes and, consequently, expenses, including
26 capital cost allowance should be deductible.

27 Now I am rather surprised that the many
28 people who would own their own planes are employed
29 people, probably because an airplane is a pretty expensive
30 article. Would you tell me what kind of people these are



1 who would be likely to own a plane and be out working for
2 a company and not use the company plane; use their own
3 plane. What types of people?

4 MR. PEPPLER: Sir, they come from all walks
5 of life, from the salaried executive who probably makes
6 upwards from \$50,000 a year. I have in mind a gentleman
7 in a corporation in Toronto who has two of his aircraft.
8 He is the president of the corporation. However, he
9 owns the aircraft. The corporation does not own the
10 aircraft. He owns it personally and he charges his
11 company mileage, or whatever he does, when he uses the
12 aircraft on his company business.

13 We have discovered that many geologists
14 are owning their own aircraft nowadays. As you can
15 imagine, somebody goes on up into the bush to look for
16 rock samples and has got to land on a lake, ship a little
17 rock from a certain outcrop, this sort of thing.

18 THE CHAIRMAN: These are employed geologists?

19 MR. PEPPLER: These are employed geologists.
20 They are people who do their work ever so much faster. It
21 is to their advantage to fly their own aircraft. That
22 is mainly because of saving expenses of the company.
23 For instance, if you are a geologist and you also have
24 a pilot's licence and you fly your own airplane, you
25 can probably save your company a lot more money than if
26 the company has to go to the expense of hiring an
27 aircraft and a pilot and a geologist nowadays can fly.
28 University students, as a matter of fact, are realizing
29 that it is an asset to them to learn to fly because the
30 chances are they can use their aircraft in their company



1 business and even some of them told me they stand a
2 chance, a better chance of getting a job by having these
3 additional qualifications.

4 We have a case in Northern Ontario right
5 now with the Ontario Hydro Company. They are building
6 a dam somewhere in the river south of James Bay and
7 this chap also uses his own aircraft because he found
8 that he could make his travelling between the dam and
9 the powerhouse, whatever it is, 60 miles away, ever so
10 much faster than by automobile.

11 Now he uses his aircraft and his company,
12 of course, is tickled pink. Where before they would
13 count on him maybe taking four hours to go from point A
14 to point B, it now takes him 20 minutes. It is to the
15 company's advantage. They get far more work out of him
16 and still the company is not going to the expense of
17 starting to buy everybody an aircraft. That is a company
18 aircraft.

19 I might say sir that this is something that
20 has grown and right now the fact that capital cost
21 allowance is not permitted is actually holding back, we
22 think, the acquiring of aircraft for business purposes
23 by many individuals.

24 THE CHAIRMAN: As you probably are aware,
25 the Department have considerable difficulty in administering
26 automobile deductions in respect to this type of person
27 because they use the car not only for business, but also
28 for pleasure and the cost must be apportioned and it
29 is a very difficult thing to do.

30 We have had quite a few representations to the



1 effect that the Department is not sufficiently generous
2 in one direction, or another direction. I can understand
3 the Department would be very loath to go into the matter
4 of aircraft where the charge is a great deal heavier than
5 the automobile, where whatever is done must be done in
6 an arbitrary manner because the man uses his aircraft
7 partly for pleasure and partly for business and some
8 distribution has got to be made of the cost.

9 Now if we asked you to give us a count of
10 the number of people in the category in which you spoke,
11 would it be possible to do so? Are there 10 or 500
12 or are there 2,000?

13 MR. PEPPLER: Sir, I wish I could answer that.
14 We have been trying to get these statistics and as a
15 result of our urging the Department of Transport did
16 make a survey. As a matter of fact, just completed it
17 about a year ago now and I quote in paragraph 10 that
18 these statistics from the Department of Transport showed
19 that in the year 1961 privately registered aircraft flew
20 a total of 244,000 hours for business transportation and
21 when you compute the mileage basis, which we did by
22 taking the average speed of the private aircraft, we
23 found that for business purposes private aircraft in 1961
24 would have covered 30,000,000 miles.

25 THE CHAIRMAN: But a lot of those would be
26 owned by corporations but would be supplied to their
27 personnel for business purposes?

28 MR. PEPPLER: This is something sir -- this
29 would be corporations. We have corporations, Shell Oil
30 Company, Imperial Oil who have their own aircraft. This is



1 quite true, but I can assure you that the individuals
2 who use aircraft for business purposes far exceeds the
3 number of corporations which happen to own their own.
4 You can almost count them.

5 We had as part of our Association, Canadian
6 business aircraft operators and this was a separate
7 section of our Association. At one time we made a
8 canvass right across Canada of every company that owned
9 an aircraft and I can assure you, you hear a lot more
10 about them, mind you, than the man who carries the
11 briefcase out to his airplane and flies himself. You
12 hear about the multi-engine aircraft for prestige value,
13 but they are very very few in number.

14 I would like to say, sir, in answer to your
15 comment to the statement you made earlier, it's very easy
16 for one to know exactly how much time was spent by the
17 owner of an aircraft, on his operation of that aircraft
18 for business purposes and for pleasure. The Department
19 of Transport regulations, as they stand now, make it
20 mandatory that a log book be completed and at the present
21 time, as a matter of fact, income tax inspectors through-
22 out Canada when somebody is using an aircraft for company,
23 that is when the company owns it, at any time they are
24 suspicious, they usually look at the aircraft log book
25 and this is quite common in the District Taxation Office
26 to ask for the aircraft journey log book to make sure
27 this man flew on as many trips as he said he did and,
28 therefore, they allow a certain percentage of capital
29 cost allowance in the case of where the corporation owns
30 the aircraft. It is allowable.



1 COMMISSIONER WALLS: Under that system how
2 would they know if a man flew into the north country,
3 whether they flew into a lake for fishing instead of
4 flying into to carry out a geological survey?

5 MR. PEPPLER: Well sir I would say that this
6 question would have to be asked to him and he would have
7 to prove it to the satisfaction of the taxation officer.
8 I think that would occur if the man took a lot of trips
9 from Ottawa to New York and said it was on business. Did
10 he go on business or did he go to see a show? I think
11 that he would have to prove that it was business. Why
12 did you go there and what contacts you made? This sort
13 of thing.

14 THE CHAIRMAN: Any questions?

15 COMMISSIONER PERRY: Excepting that I detect
16 a little difference of presentation in Mr. Peppler's
17 where he mentioned in one or two cases there was re-imburse-
18 ment by the employer on some basis or other, you are
19 quite well-aware, no doubt, this is something that would
20 be eligible only where the employee is required to meet
21 all his expenses of travel and that is the case that you
22 have in point which is a narrower case than simply
23 employees at large.

24 MR. PEPPLER: You are quite right sir. It's
25 capital cost allowance of aircraft itself that we are
26 mainly concerned with.

27 COMMISSIONER PERRY: Are you arguing for this
28 in the situation where the employee is re-imbursed for
29 travelling expenses as well, or simply within the terms
30 of the law as it now stands?



1 MR. PEPPLER: Primarily it is a case of where
2 the user of the aircraft, the owner of the private
3 aircraft acquires that aircraft solely to help earn
4 income.

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RPS 1 I don't know if I could keep it that broad.
2 Maybe you don't want me to keep it that broad. This is
3 a case where a man looks out and he sees who his
4 competitors are and he sees that some of his competitors
5 are able to do far more work because a man in his
6 equivalent position with another company has acquired an
7 aircraft and he makes so many calls in a day and the
8 other man driving down the highway is a day or two, within
9 a period of a week, behind. He says by necessity he must
10 also acquire an aircraft if he is to accomplish the same
11 amount of work as his competitor though if he acquired
12 an automobile, for instance, the taxation law states yes
13 he can obtain capital cost allowance for that automobile
14 because he is using it to help the company. When a man wants
15 to buy a superior mode of transportation, a private
16 aircraft -- the automobile, in exactly the same case,
17 here the law permits capital cost allowance for that
18 automobile and that is what I am asking, that if it is
19 a case that an employee must pay his own mileage charges
20 in these cases as well as obtain capital cost allowance
21 consideration, exactly the same thinking would apply also
22 to aircraft.

23 COMMISSIONER PERRY: I am not an expert
24 on the subject, but my impression was that the present
25 allowance is limited to people who are meeting their own
26 expenses, employees who are meeting their own expenses.

27 MR. PEPPLER: Yes.

28 COMMISSIONER GRANT: What significance,
29 Mr. Peppler, do you see or your tax advisers see in that
30 part of the letter which you received from the Department



1 of National Revenue that is quoted on page 6, the
2 concluding sentence which says:

3 "He may further claim his operating expenses
4 "if reasonable to the extent it pertains to
5 "travelling in the course of his employment".
6 Would you comment on that?

7 MR. PEPPLER: Yes, sir, operating expenses
8 as far as we are concerned is straight mileage amount, if
9 he has to pay a landing fee, gasoline and oil. I under-
10 stand that it is common for someone to obtain seven, nine,
11 or ten cents a mile remuneration for an automobile if
12 he uses his automobile in his employer's business, and
13 as far as the operating expenses, I would say they could
14 be interpreted as being straight nominal mileage amounts
15 equivalent to what is presently being paid in the case
16 of the automobile.

17 COMMISSIONER GRANT: Would you say depreciation
18 is taken into consideration in determining that mileage
19 rate ?

20 MR. PEPPLER: No, sir, I don't think that
21 depreciation is taken into consideration. I know the
22 rates that many people are receiving today, who use their
23 own aircraft in business, as a matter of fact the
24 Treasury Board changed their regulations as a result of
25 our representations a year ago and they permit civil
26 servants to use their own aircraft on Government business
27 and they pay remuneration, nominal mileage amounts, and
28 that amount identical to the automobile, identical -- that
29 is the way -- I think it is called travel regulations,
30 I believe, civil service travel regulations and I know that



1 the seven cents a mile for operating even a small type of
2 aircraft certainly does begin to cover gasoline and
3 oil and maybe insurance, things like this.

4 COMMISSIONER GRANT: Gasoline consumption
5 would be much higher in an average privately-owned air-
6 craft than it would for an automobile?

7 MR. PEPPLER: There is a very wide variation.
8 Some aircraft burn seven gallons an hour and go a hundred
9 and fifty miles an hour and other aircraft burn fifteen
10 gallons and only go ninety miles an hour. Aircraft are
11 becoming more efficient all the time and some of the
12 most efficient aircraft today would equal the standard
13 American car. We have some European cars which burn a
14 very small amount of fuel, for example the Volkswagen
15 and aircraft can't meet that, I don't know any aircraft
16 that will meet that economy.

17 COMMISSIONER PERRY: What is the rate under
18 which these type of aircraft would be written off at the
19 present time, what is the capital cost allowance?

20 MR. PEPPLER: 40 per cent, Mr. Chairman.

21 COMMISSIONER PERRY: 40 per cent.

22 THE CHAIRMAN: 40 per cent diminishing balance?

23 MR. PEPPLER: Pardon?

24 THE CHAIRMAN: 40 per cent on diminishing
25 balance?

26 MR. PEPPLER: Yes, 40 per cent.

27 COMMISSIONER WALLS: What percentage of these
28 individual employees who are flying aircraft would be in
29 the prospecting business?

30 MR. PEPPLER: Sir, I am sorry but I wouldn't



1 even want to have a wild guess at this. I was a former
2 bushpilot years ago working with the mining companies
3 and I know mines who did start to acquire their own
4 aircraft and I can say that they were certainly far ahead
5 of the other people in the field who had to make surveys
6 up in the Yukon, Northwest Territories, British Columbia
7 through to Newfoundland. It is, sir, impossible for
8 me to answer the question because I really don't know.
9 I could say that professional engineers are all sort of
10 beginning to see that an aircraft can be used to their
11 personal advantage in their business day to day. I
12 know the field of geology is particularly adaptable to
13 the use of this type of individual aircraft because these
14 men are always working on the lakes anywhere and he can
15 go with a small seaplane or on skis in wintertime, a
16 little two-seater and go from lake to lake. The field
17 of geology has a little more advantage, shall we say, than
18 the businessman because he can usually get right to where
19 he wants to go whereas the airport situation in Canada
20 has vastly improved in the last 10 years -- you can
21 pretty well fly anyplace, Smith Falls, Perth, Pembroke,
22 Kingston, Brockville, Belleville, Oshawa -- all these
23 smaller places have their own airstrips today and that
24 is one reason why this presentation with I am making this
25 morning is more important now than ever before. Ten
26 years ago if I came to you you might ask how many of these
27 places have landing fields, could any businessman actually
28 make all these calls and it would have been a little
29 harder to justify, but today many of these small localities
30 have their own airports and the number of communities acquir-



1 ing their own airports are increasing; therefore it is
2 practical. I just want to go back to your original
3 question, the geologist can use the aircraft to a little,
4 maybe a little better advantage than other professional
5 people because they are working out in the bush, the
6 forestry aspects, the lakes and rivers and he can usually
7 get right down to where he wants to go.

8 COMMISSIONER WALLS: What I am trying to get
9 was the deduction that a mining corporation gets for
10 prospecting, exploration -- wouldn't in all cases it be
11 more profitable for the company to supply the plane rather
12 than the individual?

13 MR. PEPPLER: This, I think, sir would be
14 possible if you are looking simply at the dollars and
15 cents standpoint, but the case of liability comes into
16 this and you will find that if companies who own an
17 aircraft, go to the insurance company and say we want
18 to cover this aircraft for so much insurance that the
19 insurance company is going to come and say we are only
20 going to do this if your pilot is a commercial pilot,
21 if he has three or four thousand hours of flying time,
22 and they put in a whole lot of stipulations like this,
23 whereas if the man owns the aircraft the company liability
24 is greatly reduced.

25 I can say it would probably be the same
26 thing as if they asked him to use his own automobile
27 on company business. I am not too acquainted with this
28 particular field but I would guess that when an employer
29 asks an employee if he would use his automobile to make
30 a certain trip he isn't concerned at the moment what



1 insurance and this sort of thing is carried but if it
2 is a company-owned automobile he would have to take this
3 into consideration and then as the letter I read to you
4 before from the public accountants in Toronto, I take it
5 this is exactly why the president of the company
6 concerned wanted to own the aircraft himself. There are
7 certain legal and other problems associated with
8 companies owning their aircraft and it is far more
9 attractive for an individual to own it from the liability
10 standpoint, sir. I think this is the case.

11 COMMISSIONER PERRY: Mr. Peppler, what is the
12 range of cost of this type of aircraft?

13 MR. PEPPLER: Sir, a modern business aircraft
14 today has a range up to 1,200 miles.

15 COMMISSIONER PERRY: I am sorry, the range
16 of cost, not distance.

17 MR. PEPPLER: The range of cost, I am sorry,
18 the lowest cost aircraft on the market today that would
19 be acquired for business purposes by an individual, today
20 I would say would be \$12,000.

21 COMMISSIONER PERRY: That is minimum?

22 MR. PEPPLER: This is new price.

23 COMMISSIONER PERRY: Could you give me the
24 high side not having in mind the most extravagant plane
25 one could consider, but the more expensive type of plane
26 that could be used?

27 MR. PEPPLER: Sir, I really don't think that
28 an individual would ever buy an aircraft which would
29 exceed \$50,000, new price in order to have the most
30 efficient transportation by air that could be bought. Most



1 of these aircraft used by individuals, incidentally, are
2 all of single engine, four-place type that will carry
3 four people and cruise 180 miles an hour, 200 miles an
24 hour.

5 COMMISSIONER GRANT: Just one more question,
6 Mr. Peppler, coming back to what the Chairman asked you
7 earlier as to if you could let us know the number of
8 people who are affected by their ability to write-off the
9 cost of ^{an} aircraft which is used in their business. How
10 many of these people are members of your Association?

11 MR. PEPPLER: At the present time, sir, there
12 are approximately 20,000 pilots in Canada and we have
13 5,000 members, so approximately one-quarter, one-fifth.

14 COMMISSIONER GRANT: Now, do companies that
15 own their own aircraft, are they eligible for membership
16 in your Association?

17 MR. PEPPLER: They are eligible, sir. We
18 have what is known as the corporate membership fee. As
19 a matter of fact, as I said earlier at one time another
20 current association was part of our group. We called it
21 the Canadian Business Aircraft Operator Division of
22 Canada Owners and Pilots Association. However, they
23 had a few ideas of their own that weren't too compatible
24 with ours and they decided to form their own Association
25 so after being with us a couple of years they dropped off
26 and they are known as the Canadian Business Aircraft
27 Association. The difference is that to be eligible for
28 membership in the Canadian Business Aircraft Association
29 these aircraft must be flown by Corporation pilots and
30 all of these aircraft are owned by Corporations, Imperial



1 Oil, T. Eaton Company, Robert Simpson. These are all
2 corporate-owned aircraft and of course, I am concerned
3 with the individual who uses his own aircraft and wants
4 to use it for business purposes.

5 THE CHAIRMAN: Thank you very much,
6 Mr. Peppler. I think we pretty well understand your
7 problem. The only point on which I am not completely
8 satisfied is the extent of it, how many people would
9 be involved, and I don't think you are able to tell me
10 very well, but I am prepared to accept there are probably
11 quite a few as you put before us. Your submission really
12 requests us to recommend that in those cases where an
13 employee is entitled to deduct for the operating expenses
14 of his aircraft he be also entitled to deduct depreciation,
15 which on the face of it is not too unreasonable to me.
16 However, we will have to look into it carefully. Thank
17 you very much for putting it before us, Mr. Peppler.
18 We are glad to have seen you.

19 MR. PEPPLER: Thank you .

20 THE SECRETARY: Mr. Chairman and Commissioners,
21 the second brief this morning is being presented by the
22 Canadian Gas Association. Mr. G.W. Woods who is Chairman
23 of the Tax Committee, and also vice-president of Trans-
24 Canada Pipe Lines, is here to speak to the brief together
25 with a number of his colleagues who he will introduce
26 to you. I would like to enter this brief into the record
27 as Exhibit 232.

28
29 ---EXHIBIT NO. 232:

Submission of the
Canadian Gas Association.



SUBMISSION OF

THE CANADIAN GAS ASSOCIATION

APPEARANCES: Mr. G.W. Woods Mr. F. Bancroft

Mr. K.L. MacFadyn Mr. H. Andrews

Mr. D. Wishoite Mr. V. Wager

THE CHAIRMAN: Good morning, Mr. Woods.

We have read your submission with considerable interest and we would like if you would please to introduce your colleagues. For my part I introduce the Commission to you. The names are all before us so I don't need to give them to you. You cover a number of matters which are of interest and we have a number of questions to ask you.

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R/RPS 1 THE CHAIRMAN: In commencing, do you care
2 to start off by telling us about yourself and saying
3 anything by way of summary, if you wish? You don't need
4 to read the submission.

5 MR. WOODS: Mr. Chairman, I would like to
6 commence by introducing my colleagues who are with me
7 here. Mr. McFadyn, who is associated with Canadian
8 Western and Northwestern Utilities of Alberta. Mr.
9 Wishoit, the Association's auditor. Immediately here
10 Mr. Bancroft, Secretary Winnipeg Gas Company. Mr.
11 Andrews of the Northern Ontario Natural Gas Company and
12 Mr. Wager of the United Gas Company of Hamilton.

13 THE CHAIRMAN: What was the second-to-last one?
14 I am sorry, I was not quick enough.

15 MR. WOODS: Mr. Andrews of the Northern
16 Ontario Gas Company. We also have some reinforcements
17 behind us here.

18 The Canadian Gas Association consists of over
19 six hundred members. It's the trade association for the
20 natural gas industry. This industry became a national
21 industry in the '50's with the building of the West
22 Coast and Trans-Canada Transmission Systems.

23 Natural gas is now distributed in Canada
24 to all major centres from Vancouver to Montreal. Canadian
25 natural gas is also exported to the United States in
26 several locations on the International Border. The
27 membership of this Association consists of producers,
28 transmission companies, distribution companies, manufactur-
29 ers and contractors. However, in practice, this is the
30 spokesman for the Gas Utilities in Canada.



1 This submission has been made by the Canadian
2 Gas Association on behalf of the listed investor-owned
3 utilities. Other members of the Canadian Gas Association,
4 such as producers, manufacturers and contractors will,
5 I am sure, be submitting their views to you through other
6 associations.

7 While these other groups are members of this
8 Association, I do not believe they look to the Canadian
9 Gas Association, in the first instance, as their trade
10 association.

11 Just one or two statistics. I said this
12 industry has become mature very recently. These statistics
13 are to the end of 1962. Invested capital in the
14 distribution and transmission companies is now over
15 \$2,000,000. Employees, nearly 50,000 employees in these
16 companies. Gross sales were \$260,000,000 in Canada.
17 Exports have reached \$80,000,000 in 1962. It will have
18 grown somewhat in 1963 and will continue to grow somewhat.
19 The number of customers is now about 1,400,000 individual
20 customers which projected on population means that natural
21 gas is serving probably four -- something in excess of
22 four million Canadian citizens.

23 That sir is a brief outline of the structure
24 of the organization. I have really nothing to add to our
25 submission. I can review it briefly, if you wish.

26 THE CHAIRMAN: I don't think you need to.

27 MR. WOODS: We tried to keep it as short as
28 possible.

29 THE CHAIRMAN: Thank you very much indeed.

30 Does this cover all the gas companies in Canada? We think



1 there are one or two omissions in your appendix A.
2 Toronto Consumers Gas does not seem to be here and
3 Montreal Gas Company.

4 MR. WOODS: There are two companies which
5 are not listed. One is Quebec Natural Gas in Montreal.
6 They are not members of the Canadian Gas Association at
7 the moment. They are not signatories, are not members
8 of the Canadian Gas Association. They have read the
9 brief and I can state that they certainly support it.

10 The Consumers Gas again have no quarrel with
11 the brief in any respect but they have said they would
12 prefer and always prefer to submit their views to the
13 extent they see fit as a corporation in their own right.

14 Both those companies have indicated they
15 have no quarrel with the brief, as such, in any way.
16 They are not signatories because of any conflict of
17 opinion.

18 THE CHAIRMAN: Are there any others that
19 I have not spotted?

20 MR. WOODS: There is only one or two of
21 these companies which would be associated with them,
22 like Consumers have several subsidiary companies but
23 there are no others that I am aware of other than companies
24 associated with those.

25 No companies associated with Quebec Natural.
26 One or two associated with Consumers, Ottawa Gas Company,
27 of course. A gas company in Hull. These are all
28 related companies.

29 THE CHAIRMAN: Thank you. Don't bother to
30 stand unless you wish to do so.



1 MR. WOODS: Thank you sir.

2 THE CHAIRMAN: Now I would think we would
3 do best to take this point by point and I guess we
4 commence, properly, at page 4 under income tax discrimin-
5 ation. Is this correct? I think what you have said
6 before is picked up from there on?

7 MR. WOODS: Yes sir.

8 THE CHAIRMAN: This is not the first time
9 we have heard about income tax discrimination, nor the
10 thought that such discrimination has caused certain
11 Provinces to take over their regulating utilities. You
12 do not propose a solution to this. Have you one?

13 MR. WOODS: As you know by our submission
14 here, being an Association, we have various views but
15 being an Association, in our submission we have urged
16 the Commission to study the alternate forms of taxation
17 to eliminate the present discrimination on the customers
18 of the investor-owned utilities.

19 I think it is fair to say in our discussion
20 we have not developed any alternative which seems more
21 practical than the end-use type of tax proposed by
22 Canadian Utilities and supported by Calgary Power. Our
23 discussions have reached a point where we consider that
24 the most practical but we have hesitated. We have
25 discussed in some detail such things as added value
26 tax, turnover tax, but we do not feel we really know
27 all the economic implications of some of those taxes
28 but this end-use tax appealed to us as being the most
29 practical.

30 THE CHAIRMAN: Have you concerned yourself with



1 the problems as to how one levies the tax and, particularly,
2 collects it?

3 MR. WOODS: Well we have sir and again we
4 come back to the discussion which took place before your
5 Commission with Canadian Utilities and Calgary Power.
6 None of us here today are lawyers but it is our under-
7 standing that there is no constitutional problem or
8 legal problem and that, presumably, it is a political
9 problem which comes down to Dominion-Provincial relation-
10 ship and Dominion-Provincial arrangements.

11 THE CHAIRMAN: You have not got a solution
12 to the Dominion-Provincial relations?

13 MR. WOODS: No sir.

14 COMMISSIONER WALLS: I have two questions.
15 Dealing with your paragraph 6 where you say:

16 "Secondly, it encourages those who
17 "favour Government ownership of public
18 "utilities."

19 Now it seems to me that a Provincial or
20 Municipal Government by not being taxable does either
21 of two things: either passes on to its customers all
22 or part of the tax saving in lower utility rate, or
23 lacking that, it sells at a going price and puts the
24 difference into the Provincial consolidated revenue
25 which means that it does not have to use other forms
26 of tax to contribute the same revenue so would you not
27 say that, generally speaking, the Provincial customers,
28 the taxpayer benefited to some extent either way?

29 MR. WOODS: I really don't quite understand
30 that, I am sorry.



1 COMMISSIONER WALLS: You mentioned the fact
2 that there is a disadvantage to the taxpayer, loss of taxes
3 in your brief. Now as far as the Provincial taxpayer
4 is concerned, if the Provincial Government utilities are
5 not taxable, then naturally one of two things happens:
6 The amount they save is either passed on by lower
7 rates to the customer or they charge the same rate as
8 the private utilities companies and they put the saving
9 into consolidated revenue which means that they do not
10 have to use other forms of revenue or taxation to raise
11 that amount of money so in either case the Provincial
12 taxpayers benefit. Is that not a fact?

13 MR. WOODS: I think that is a fact as long
14 as the revenues are retained in the profits. The basic
15 problem here is we have the situation where we have
16 certain utilities in certain Provinces which pay the
17 Federal taxes and those taxes leave the Province. Some
18 percentage does come back but to that extent those
19 Provincial customers are at a disadvantage vis a vis
20 the customers of other types of ownership. I am sorry,
21 I may not have answered your question.

22 COMMISSIONER WALLS: Well I will put the
23 second question because I think this is perhaps the crux
24 of your whole brief is your concern about increased
25 takeover by Provinces and Municipalities of utilities,
26 as these two forms of government seem to have a yen
27 for your particular type of business. Now what
28 disturbs me is, as far as I can understand, the
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1 general public do not appreciate that there is a tax
2 saving and yet in none of the Provinces where there has
3 been a takeover have I seen any general objection by the
4 public to the Province taking over. They may have objected
5 to the way it was taken over in some cases, but I have
6 never heard of the public objecting to the Government
7 taking over utilities.

8 MR. WOODS: Possibly one of the reasons
9 they have not objected is this emotional argument that
10 we will save Federal income tax is so overwhelming --
11 it may not be the complete reason, but in B.C. as an
12 example it was one of the stated reasons. Over and over
13 again, one of the stated reasons. With that stated
14 reason, presumably, there is no public objection; it's
15 such an emotional, psychological thing that the public
16 does not object. They believe that they are going to
17 save Federal income tax.

18 Why should we in Vancouver have to pay Federal
19 income taxes when the people in Ontario are not? There
20 has never been a good answer to that question.

21 COMMISSIONER WALLS: Do you think that,
22 generally, the public is aware that there is a tax saving,
23 that a Provincial utility does not have to pay Federal
24 tax or do they have some other reasons why they endorse
25 the Government action, and the Government is, in effect,
26 only carrying out what the voters want?

27 MR. WOODS: There probably are other reasons
28 but the politicians believe it is necessary to emphasize
29 and re-emphasize this Federal income tax saving. Therefore,
30 we accept the fact the politicians know what the people



1 are thinking- it's the repeated reason, both in Quebec
2 and British Columbia. This is one of the repeated reasons.
3 Now whether there are other reasons, I don't know, but
4 certainly this is a publicly stated reason. There may
5 be other reasons they may not want to discuss and there-
6 fore this becomes a popular reason; one reason everybody --
7 if they cannot understand it, at least like the sound
8 of: we are going to save X million dollars we pay Ottawa,
9 and that is in itself a persuasive enough argument and
10 when you can couple that with why should we pay it when
11 the people in Ontario are not, you get a devastating
12 argument.

13 COMMISSIONER BEAUVAIS: But is it really a
14 savings because if the Shawinigan, for instance, paid
15 \$25,000,000 to the Treasury, well the revenue is lost
16 by Ottawa and then it has to have a tax on something
17 else, say a tax on construction material.

18 MR. WOODS: That is true. I don't think the
19 argument would be accepted, except for the fact that there
20 are many geographical areas where they do not pay this
21 tax. Therefore, the argument in Quebec is if we do not
22 pay it, other taxes have to be raised but these other
23 taxes will be raised on a basis to be spread across the
24 country, not specifically from Quebec.

25 I don't think there is any question in the
26 world, Shawinigan -- they say Federal incomes taxes are
27 not being paid, and undoubtedly the taxes have to be raised
28 somewhere else.

29 THE CHAIRMAN: I think we understand the
30 point as to income tax discrimination and we might now move



1 on to sales tax discrimination.

2 COMMISSIONER WALLS: I would like to say
3 something more here. I don't know whether this is really
4 a question or not, but I would like to say that your
5 statement:

6 "To be fair, gas in all its uses should be
7 "given exemption from Federal Sales Tax,
8 "just as electricity in all its uses is
9 "exempt. . . "

10 I think that this is a point well made but
11 the trouble, it seems to me is that as soon as you exempt
12 natural gas for internal combustion engines, you are
13 going to have the manufacturers of gasoline and diesel
14 fuel quite rightly ask for like exemption for like
15 purposes and then you run into both the tax problem and
16 an administrative problem.

17 It seems to me, first of all, it is very
18 difficult to tell whether gas is going to be used for
19 specific purposes, such as a combustion motor as against
20 truck or automobile. Secondly, of course, there would
21 naturally be a loathness to touch a cost that brings
22 in such revenue as gasoline and diesel oil not particularly
23 Federally, but Provincially where you have a tax that
24 is up in the thirty-odd per cent. In other words, you
25 have gasoline; the lowest Province, I believe, collects
26 12 cents a gallon and the highest Province 19 cents a
27 gallons and so while your case, I think, is quite fair
28 in comparison with electricity being exempt, I can see
29 that there will be great difficulties in both carrying
30 out the administration and perhaps several political



1 reasons for exempting natural gas in stationary combustion
2 engines.

3 MR. WOODS: We recognize this sir, that is
4 why we made the "or electricity should be subject to the
5 same sales tax as gas."

6 We run into the situation, I am speaking from
7 our own company, where we have compressor stations.
8 We run cost studies of these, either a new station will
9 be gas or possibly electric motor, and you see all the
10 components of cost, including fuel, the energy cost and
11 the natural gas comparison and even have the sales tax
12 on electricity.

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RPS 1 COMMISSIONER WALLS: I think you are right.

2 MR. WOODS: I could say I think it never is
3 decided solely on that. It is a factor. We are building
4 on Trans-Canada system, one electrical station at the
5 moment, and certainly the lack of Federal sales tax
6 tended to improve the economies of the situation.

7 COMMISSIONER WALLS: I think that point is
8 worthy of consideration by the Commission.

9 MR. WOODS: Thank you, sir.

10 THE CHAIRMAN: What is the reason -- perhaps
11 Mr. Walls knows this, but I don't, for the complete
12 exemption of electricity, and may I assume it is because
13 it is a service and not goods. Do you know the answer
14 to that?

15 MR. WOODS: No, I don't.

16 COMMISSIONER WOODS: I don't, either.

17 THE CHAIRMAN: That is something I will have
18 to ask somewhere else.

19 Is there any more on sales tax, Mr. Commissioners?

20 Now, you have got some matters relating to
21 three types of business expenses and the first one of
22 these is capital financing. Is it true that none of these
23 are permitted? I had the idea legal, accounting, printing
24 and incidental costs were. Are they not permitted?

25 MR. WOODS: Yes sir, if you look at the top
26 of page 9, items (a), (b) and (c) (i) are allowed as
27 deductions, and items (c) (ii), (d) and (e) are not
28 allowed at the present time.

29 THE CHAIRMAN: Any questions on that?

30 COMMISSIONER WALLS: With respect to (d),



1 commissions paid to underwriters for the sales and
2 distribution of securities, I suppose that this is
3 contrary to Section 12(1)(b) of the Act which states:

4 "In computing income no deductions
5 "shall be made in respect of a payment
6 "on account of capital".

7 Now, it does seem rather odd to me, however,
8 that a life insurance company for much the same purpose
9 have a commission which is deductible. Am I right in
10 that?

11 MR. WOODS: I don't know. I really can't
12 speak according to life insurance companies, but the
13 underwriters' commissions are not allowed. I don't
14 know what the context of the word "capital" is, but they
15 are not allowed on the issuance of equity or debt
16 securities, and I think there is more logic to allow them
17 on debt securities than on equity securities, but at the
18 present time they are not allowed on either although they
19 are taxable in the recipients' hands.

20 MR. WALLS: Would you look on the commission
21 to the underwriter to be the same as a sales expense?

22 MR. WOODS: Yes, in practice for the companies
23 it does become unidentifiable to all intents and purposes
24 and in practice is allowed.

25 THE CHAIRMAN: The law looks upon it as a
26 reduction of the amount the company receives from the
27 sales of its securities. Those securities produce
28 capital.

29 MR. WOODS: We look on them as, in fact,
30 a selling expense as Mr. Walls says. The people are



1 performing a selling function.

2 THE CHAIRMAN: This is not the first time we
3 have heard this point made and obviously there are people
4 other than yourselves that believe your suggestion.

5 COMMISSIONER GRANT: I could see a difficulty
6 here. I don't know whether it is the difficulty that the
7 Department -- that if the commission paid to the
8 underwriter were to be permitted as deductible expenses
9 it could in certain cases lead to a certain amount of
10 abuse in that the discount could raise to quite a high
11 amount, say five points on bonds issued. Now, that would
12 be up to the underwriter to sell that bond at what he
13 could sell it for to the public, and that would have
14 a bearing on the interest rate on the bond because the lower
15 the price to the public then the lower the interest
16 rate could be because the higher the return. You might
17 get into a very bad situation there.

18 COMMISSIONER PERRY: There is a Section now
19 to catch the more flagrant cases of this, but all we hear
20 is what might be done to assure that the person benefiting
21 by the discount pays some tax on that discount as they
22 would were it a coupon interest. I don't think anyone
23 has ever come up with a feasible sort of plan.

24 THE CHAIRMAN: You are referring to discounts?

25 COMMISSIONER PERRY: Yes. Mr. Grant had
26 mentioned discounts and I was following up. Most of
27 these payments are cash payments. When you pay a
28 commission to an underwriter it is a cash transaction and
29 appears in his income and is subject to tax. Discount
30 normally doesn't. It certainly increases the real cost



1 of the financing but it isn't normally income to the
2 final recipient of the discount.

3 MR. WOODS: We are dealing with discounts.
4 The suggestion of the Canadian Bar Association and the
5 Canadian Institute of Chartered Accountants was it would
6 be allowed as long as it wasn't more than one-quarter
7 of one per cent. It is a most practical solution and
8 allows you to complete issue with much more than one-
9 quarter of one per cent which should not within reason
10 ever be more than one-quarter of one per cent.

11 THE CHAIRMAN: They recommend the tax to the
12 recipient. I don't follow that.

13 MR. WOODS: We are not recommending that
14 if we have allowed a corporation not more than one-quarter
15 of one per cent, I don't think it is practical to tax
16 in the hands of the recipient. If you do attempt to allow
17 it to the company regardless of the amount I think it
18 has to be taxed in the hands of the recipient, presumably
19 at the time of issue.

20 COMMISSIONER GRANT: Is that contained
21 in the joint submission of the Canadian Bar Association
22 and the Institute of Chartered Accountants?

23 MR. WOODS: I understand that it is contained
24 in their submission.

25 MR. WISHOIT: That was in the joint submission
26 back in December of 1962.

27 COMMISSIONER PERRY: It is there all right.
28 I remember that.

29 THE CHAIRMAN: Anything more on paragraph 12?
30 If not . . .



1 COMMISSIONER GRANT: I was going to ask
2 something on right-of-ways.

3 THE CHAIRMAN: That is two ahead. We have
4 not reached there.

5 THE CHAIRMAN: Costs of hearings is the next
6 item. Is it true that none of these expenses are
7 permitted for tax purposes?

8 MR. WOODS: There is a great deal of
9 uncertainty there. This industry we are representing
10 to a great degree is not assessed because to a great
11 degree we are dealing in loss years. We might discuss
12 that. This was in the front and we passed over it.
13 The assessing people seem to have a great deal of doubt.
14 Every one of us knows assessors seem to approach these
15 hearing costs with a suggestion that they are certainly
16 doubtful, and in some cases it seems to turn upon whether,
17 the discussion with the assessors seems to turn upon
18 whether the application of hearing was successful and in
19 the public utility business hearings are a continuous
20 part of doing business.

21 THE CHAIRMAN: Might I ask, Mr. Woods, if
22 they have ever been disallowed? It seems to me the
23 law must admit this. It is a cost of earning income.

24 MR. WOODS: As I said, sir, most of the
25 companies here have not been definitely assessed because of
26 the loss of capital cost allowance situation and will not
27 be assessed for some time to come. In our case we have
28 been carrying on continuous discussions with the Department
29 officials on some of these, such as the Borden Commission.
30 We don't know today whether they are allowed or not.



1 THE CHAIRMAN: I know some of the companies
2 have indulged in the public hearings and I know that one of
3 them has been assessed and therefore I know that there
4 are precedents, but I don't know whether or not they
5 were allowed and therefore I ask you does anybody know
6 a case where they have been disallowed?

7 MR. WOODS: We have no case where they have
8 been disallowed in the ultimate assessment, sir.

9 COMMISSIONER GRANT: In a case which involves
2 10 a court action the costs are subject to taxation and
11 both the winner and the loser would be permitted to deduct
12 their costs, but in a case of hearings before tribunals
13 and boards and so on there is no provision that I know
14 of for taxation of the costs involved. That, I suppose,
15 rests on the assessors with the Department of National
16 Revenue to determine what is reasonable.

17 MR. WOODS: I don't believe we have had
18 any discussions with them of whether the expenses were
19 reasonable in amount or not.

20 THE CHAIRMAN: That is not what is contained
21 in here. You are talking about the principle.

22 MR. WOODS: Talking about the principle.

23 THE CHAIRMAN: As I see it you don't need
24 any help on the principle, unless I am mistaken. I think
25 the law supports you.

26 MR. WOODS: I would like to ask Mr. Andrews
27 to speak to that. He is with Northern Ontario Natural
28 Gas and they have had some costly hearings.

29 MR. ANDREWS: We have, in respect to a hearing
30 of Trans-Canada in respect of natural gas -- we had



1 discussions with Trans-Canada to acquire more gas at a
2 certain price. We intervened in this hearing, and through
3 our intervention we did obtain our contract to get more
4 gas. This cost us a certain amount of money, perhaps
5 \$60,000, legal fees, engineering consultants and so on.
6 As Mr. Woods says it is true this has not been assessed,
7 but the auditor has been in, audited and disallowed this
8 in his working papers. It is true final assessment
9 has not been made because we are not yet in a taxable
10 position and it could be reversed sometime in the future.
11 However at this time the auditor has disallowed it.

12 THE CHAIRMAN: Thank you.

13 COMMISSIONER PERRY: You do say in paragraph
14 14 that the Department has not been consistent in its
15 treatment. Do you have cases where it has been allowed
16 and cases where it hasn't?

17 MR. WOODS: We have cases very similar to
18 this one where the Department assessors have allowed it.
19 In Northern Ontario Natural Gas, the present decision
20 of the Department is they are not allowed.

21 THE CHAIRMAN: That is only at the assessing
22 level as Mr. Andrews points out.

23 MR. ANDREWS: That is right.

24 THE CHAIRMAN: And it has not been looked
25 at at the top level of the Department.

26 MR. ANDREWS: This has been taken to Ottawa.

27 THE CHAIRMAN: It has been taken to Ottawa.

28 MR. ANDREWS: Yes.

29 THE CHAIRMAN: And Ottawa has told them to
30 disallow it?



1 MR. ANDREWS: That is right, sir.

2 COMMISSIONER GRANT: And the amount is not
3 the factor, it is the principle at the moment?

4 MR. WOODS: That is correct.

5 THE CHAIRMAN: I suspect in the case that
6 you refer to it has some resemblance to a non-revenue
7 item because you are securing rights of a continuing
8 nature for capital purposes. That is what it appears
9 to be.

10 MR. ANDREWS: That has been the attitude
11 that has been taken that it is a contract running over
12 a period of years, gas bought at a certain cost. If
13 we hadn't got this contract and not spent this money
14 to do this, conceivably the cost of gas would have been
15 higher and consequently the income would have been lower.

16 THE CHAIRMAN: I am wondering whether it would
17 be fair to legislate that all costs in respect of
18 regulatory hearings should be allowed for tax purposes.

19 Usually there must be costs which are of a capital
20 nature and which should not be allowed. I cannot think
21 at the moment what they are, but I suppose that somebody
22 going into business and needing to secure a supply of
23 gas to go into business, the cost of obtaining that
24 gas should be capital and not income. Am I right?

25 MR. ANDREWS: You still have to have that
26 contract before you can deliver gas and therefore it is
27 a necessity in earning income. Whether or not it is
28 allowed as a one-shot item or whether or not it is
29 allowed as amortization, in my opinion, it should still
30 be allowed as an expense because it is an expense of doing



1 business.

2 THE CHAIRMAN: Your capital costs of any
3 business are expenses of doing business?

4 MR. ANDREWS: Yes.

5 THE CHAIRMAN: One has got to distinguish
6 between capital costs which are there for all time and
7 the current expenses.

8 MR. ANDREWS: This is true.

9 THE CHAIRMAN: I would think if with your
10 contract you are going into business to secure gas that
11 might be in the first character and not the second.

12 MR. ANDREWS: These are for specific lengths
13 of time contracts. Are they any different than the
14 plant themselves? In other words you can spend money to
15 put in plant to distribute gas. Should they not be
16 amortized over a period of time similar to plant?

17 THE CHAIRMAN: I think there is certainly
18 an argument in there for that if they are restricted,
19 and I assume it is restricted.

20 MR. ANDREWS: Yes, correct.

21 THE CHAIRMAN: Again that would make it
22 capital cost subject to amortization.

23 MR. ANDREWS: That is right.

24 THE CHAIRMAN: I am not sure there should be
25 one general rule that all hearing costs should be
26 treated as revenue expenses. Anything further on that?

27 Costs of right-of-way -- have you something
28 there?

29 COMMISSIONER WALLS: Yes. Am I not correct
30 that generally speaking your industry doesn't make an



1 attempt to purchase right-of-way but rather obtain an
2 easement, something from 50 cents to \$1 a rod, as I
3 understand it. Is that not the customary procedure?

4 MR. WOODS: Yes, sir.

5 COMMISSIONER WALLS: I am not a lawyer and
6 I have not the legal interpretation but an easement
7 seems to me more of a long-term rental than acquiring
8 the access and that you can't make the deduction if you
9 acquire the land of the taxpayer for utilities.

10 Has it ever been tested whether taking of an easement
11 is interpreted as acquiring under the Act?

12 It seems to me as a layman that what you pay out in
13 easements could be a deductible expense.

14 MR. WOODS: I don't believe it has ever
15 been tested, there has ever been any court case in
16 practice. It has clearly established the principle of
17 easement, that the cost of obtaining this easement should
18 not be allowed. I don't believe there has ever been,
19 somebody else may have some, but I don't believe I am
20 aware of any attempt to take this to a court of law.

21 THE CHAIRMAN: Let me see if I know what
22 you are talking about. I am not a bit sure I do. Are
23 there two ways of securing these rights, one to buy
24 the property and the other to pay something for the right
25 to put your lines across somebody else's property.

26 MR. WOODS: That is correct, sir. In
27 practice we very seldom buy property, and I don't think
28 there is any point of issue when you do buy land. If
29 you happen to buy land in fee it is clearly, and
30 everybody accepts it is not an allowable deduction. It



1 follows the rules of land. In these places where you
2 acquire an easement there is no residual value to the
3 expenditure, we don't own the land. There is no residual
4 value. The suggestion is it should be amortized on the
5 same basis as the pipe it holds, if it is 50 years it
6 is amortized on that basis.

7 THE CHAIRMAN: When the pipe wears out
8 wouldn't you put a new pipe down on the same property?

9 MR. WOODS: You might, but in most of the
10 easement arrangements in Canada you have to make a
11 new easement arrangement with the owner at that point
12 of time.

13 THE CHAIRMAN: Would you, because you have
14 a right on the property for the life of the pipe?

15 MR. WOODS: Some only allow you to -- there
16 are as many forms of easements as there are municipalities
17 in this country, but some allow, when you have the right,
18 you have the right to put two or three pipelines in
19 but others, the most usual one is that you have the right
20 to put a pipeline down, and if you want to put another
21 one in you must deal with the owner again.

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RPS 1 In effect we believe this is not allowable
2 for this item from the thought that this is, in effect,
3 a purchase of land. The farmers use the land for --
4 they cultivate it. In effect the gas companies depreciate
5 it in their books. Do not attempt to carry this as
6 a perpetual cost, like land. I believe in all the
7 regulatory bodies it might be depreciated for regulatory
8 purposes.

9 COMMISSIONER WALLS: I believe in some
10 parts of North America, I don't know whether in Canada
11 but in the United States that the easement has to be
12 renewed over periods of so many years with the landowner.
13 You again emphasize the fact this is, I take it, really
14 a rental?

15 MR. WOODS: That is right.

16 THE CHAIRMAN: Anything further on cost
17 of rights-of-ways? Is there anything that you think
18 we might have overlooked and to which you care to
19 draw our attention?

20 MR. WOODS: I would like to refer you to
21 paragraph C on page 2. As I mentioned earlier, this
22 being a very new industry, with large capital cost
23 expenditures -- the result is there that the capital
24 cost allowances which are available tend to defer the
25 payment of income tax for many years in the future.

26 The present procedure, whereby no final
27 assessment of business losses are received, introduces
28 a very large element of uncertainty. These years are
29 going to have to be assessed with finality sooner or
30 later and if I may use Trans-Canada as an example, probably



1 the most extreme example, but Trans-Canada is a corpor-
2 ation which commenced business in early 1950, became
3 active in the mid-'50's, and the present projections
4 are that it will not pay income tax until the early
5 '70's.

6 This means that we will never have any
7 finality to our income tax position until the '70's
8 when these matters will be -- can be up to 15 years old.
9 The accumulation of these uncertainties over the years,
10 plus the difficulty of having familiarity at the time
11 they finally come up, apart from the fact of finding
12 all the early documents -- while this is an extreme
13 case for Trans-Canada, Greater Winnipeg are not yet
14 in a position of paying income tax. Northern Ontario
15 are not. Some of the other companies are a little more
16 mature but we would like to see developed some procedure
17 whereby possibly even only on request the Tax Department
18 would arrive at some finality on these matters and
19 would give some degree of certainty.

20 THE CHAIRMAN: Why do you say 15 years?
21 Losses can be carried forward for five years, because
22 you are thinking about expenses other than losses?

23 MR. WOODS: I mean by 15 years we will never
24 have a complete assessment of our affairs until the
25 1970's when we commence to pay income tax, by which
26 time all years will be subject to review.

27 THE CHAIRMAN: Yes, but surely then you
28 will only be assessed the years of profit in the 1970's,
29 and then there will be deducted from that the losses
30 within the last five years so the Department are only having



1 to cope with losses on that restricted period; won't
2 have to go back 15 years?

3 MR. WOODS: At that time they themselves --
4 that is true but in the assessment of the year 1970,
5 or the 1972 year, at that time they will have to accept
6 with finality all our handling of business losses for
7 these early years. How we claimed capital cost
8 allowance and they may decide at that time that some
9 of the early years were really subject to tax. You have
10 the accumulative effect right there.

11 THE CHAIRMAN: Then, of course, you must
12 remember with the many losses, there will be no need
13 to assess whatsoever because in a lot of cases the losses
14 won't be used against profits, the companies run downhill
15 and eventually will become insolvent and as a result
16 the losses disappear and there is no need for the
17 Department to cope with those losses at all so I wouldn't
18 think it reasonable to impose on the Department a
19 need to assess every loss year.

20 I think perhaps what you say might be a fair
21 middle course.

22 MR. WOODS: Possibly on request, because most
23 of these early years -- the companies are not maybe
24 dealing with tax losses but bringing their taxable
25 income to zero by the claiming of certain capital
26 cost allowances which are never being assessed with
27 any finality by the Department.

28 COMMISSIONER GRANT: I would like to ask
29 you, Mr. Woods, as to what degree of control now exists
30 between members of your Association and any other organ-



1 ization to which they are selling gas in the determination
2 of the rate of the price of the product?

3 Now one thing: Are you subject to control
4 by a Board of Public Utility in every instance?

5 MR. WOODS: Yes sir, I believe so. Companies
6 such as national companies are subject to a Board, the
7 National Energy Board, a Federal Board and I believe all
8 the Provincially investor-owned utilities are subject
9 to various Provincial regulatory Boards.

10 COMMISSIONER GRANT: So that in no instance
11 are two companies able to get together and determine
12 their contract and set the rate without it being
13 approved by a Government Board?

14 MR. WOODS: This is true sir but in practice
15 the companies do get together and have up until today
16 got together and established a rate between themselves.
17 They have filed those rates with the Regulatory Board.
18 I am dealing now with -- I better go back here -- I
19 am dealing with national transmission companies as they
20 sell to the Provincially owned utilities. Up until
21 this moment all contracts had been by mutual arrangement
22 and had been filed with the National Energy Board. They
23 have not been specifically approved by them.

24 COMMISSIONER GRANT: That is on inter-
25 Provincial contracts?

26 MR. WOODS: That is on inter-Provincial
27 contracts. Within the Province, I believe every
28 Provincially-oriented-operated investor-owned utility
29 have had proceedings before their Provincial Regulatory
30 Boards to establish the rates they sell to their ultimate



1 customers.

2 In other words, Greater Winnipeg has been
3 before the Manitoba Public Utilities Commission and have
4 had their rates, but they in turn -- Greater Winnipeg
5 sell to the various customers of the Greater Winnipeg
6 area, approved.

7 COMMISSIONER GRANT: One thing we have not
8 touched upon, it seems to me today, is the ability of
9 the gas industry to absorb a higher price for its product
10 and still be competitive. Now to the uninitiated it
11 seems reasonable that gas is a fairly cheaply marketed
12 product in that it comes out of the ground, subject to
13 control, it definitely ends up in the hands of the consumer
14 without the same amount of capital expenditures say as
15 required in the Hydro system or a thermal unit for the
16 production of energy.

17 Is the gas industry able to stand this
18 increased cost and still make a profit?

19 MR. WOODS: First the gas industry is a
20 very high capital employed industry. I don't know how
21 you would relate it to the Hydro industry. I don't know
22 what terms of reference you would relate it to but
23 certainly whether the gas industry can absorb higher
24 rates or not, I do not -- I am not competent to say.
25 I know Trans-Canada is trying to sell gas all the time
26 to the distribution companies and they do not give
27 any suggestion they can pay any more for this gas. Where
28 you get into areas like Montreal where natural gas
29 has been fighting for its life, vis a vis imported oil,
30 in effect they must price the industrial gas, the type of



1 gas which is sold to industrial concerns, they must price
2 it right on the B.T.U. basis with the imported oil which
3 again is subject to some world-wide price influence.

4 COMMISSIONER GRANT: I notice that one of the
5 largest gas distributors, the Consumers Gas, is not
6 supporting this submission. Is there any significance
7 there?

8 MR. WOODS: Well they are not not supporting
9 this submission.

10 COMMISSIONER GRANT: According to appendix
11 A, page 2 they are not supporting ---

12 THE CHAIRMAN: They explained to us that
13 while they did not support it, they had nothing against
14 it.

15 MR. WOODS: They had nothing against it.
16 They felt they would prefer to submit their views to the
17 extent they thought necessary to this Commission in their
18 own manner and possibly as a corporate member. They have
19 no objection with any point raised in this brief and the
20 same for Quebec Natural Gas Company. The Quebec Natural
21 Gas Company is not a member of the Canadian Gas Association
22 at the moment. They were a member. They got in very
23 serious financial difficulties, Quebec Natural Gas, and
24 they discontinued membership in anything they could think
25 of. They are just starting to come back and they have
26 not renewed their membership.

27 I don't think there is any significance to
28 the fact they have not. Just one thing they have not
29 got around to.

30 I took the liberty of having the President of



1 the Quebec Natural Gas read this brief to see if he had
2 any ideas or any suggestions. He said he was not a member
3 of the Canadian Gas Association and therefore could not
4 become a signatory but he completely supported it.

5 COMMISSIONER PERRY: I just have one question
6 in the area of expropriation. Would it be asking too
7 much to request you to say where your particular fear
8 of expropriation lies? I don't mean by that in which
9 Province, but in which section of the industry, beginning
10 at the gas field itself. For example, is it likely that
11 a Provincial Government is going to take over a gas
12 field? You see the counterpart in Hydro is that they
13 have taken over the primary power production site and
14 the asset on the site.

15 MR. WOODS: I think the fear is clearly --
16 not at that level but the fear is clearly at the Provincially
17 -located distribution companies.

18 THE CHAIRMAN: How about the national
19 distribution companies? No, I suppose not.

20 MR. WOODS: The same principles do not apply.

21 COMMISSIONER PERRY: So it's the Provincial
22 and Municipal distribution systems where your main fear
23 would lie?

24 MR. WOODS: I have never heard any suggestion
25 of gas fields.

26 COMMISSIONER PERRY: I really would like to
27 bring you out on that because the parallel in electricity,
28 of course, is they have gone right back to the root
29 source.

30 THE CHAIRMAN: What Provincially-owned distrib-



1 ution is there now? British Columbia, of course, picked
2 up some.

3 MR. WOODS: Investor-owned Provincially-
4 located utilities would be, moving from the West ---

5 THE CHAIRMAN: No, I mean Government-owned.

6 MR. WOOD: There is the City of Vancouver,
7 the old B.C. Electric System. There is the Saskatchewan
8 Power and while it is not natural gas, there would be
9 the distribution system of the City of Quebec, the
10 Old Quebec Power System which is the manufactured gas
11 system. The hope is that before too long natural gas
12 will be extended from Montreal eastward to presumably
13 Quebec City and that system is now part of the Quebec
14 Hydro.

15 THE CHAIRMAN: There has been no expropriation
16 of gas distribution system except as part of the
17 distribution by utilities, is that not correct ?

18 MR. WOODS: That is right. I don't really
19 know the history of the Saskatchewan Power but in
20 recent times that is true sir.

21 THE CHAIRMAN: But still, as you point out,
22 the same forces would operate, as you submit, with regard
23 to Hydro-Electric.

24 MR. WOODS: It seems to be a complete
25 parallel.

26 THE CHAIRMAN: Well thank you Mr. Woods,
27 gentlemen. We understand, I believe, what you put before
28 us and we will give it our further thought and attention.
29 It there anything else you have to say to us?

30 MR. WOODS: No sir. We would like to thank



1 you for your hearing.

2 THE CHAIRMAN: Thank you very much indeed
3 for your assistance.

4 THE SECRETARY: Mr. Chairman, I would just
5 like to enter into the record this submission which was
6 received on October 18 from the Board of Evangelism
7 and Social Service of the United Church of Canada. The
8 brief has been distributed to the Commissioners.
9 I would like to enter it into the record as Exhibit
10 233.

11
12 ---EXHIBIT NO. 233:

Submission of the
Evangelism and Social
Service of the United
Church of Canada.

13
14
15
16 THE CHAIRMAN: We will stand over until
17 9:30 tomorrow morning.

18
19 ---WHEREUPON THE HEARING ADJOURNED UNTIL 9:30 A.M.,

20 TUESDAY, THE 29th DAY OF

21 OCTOBER, 1963.
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ROYAL COMMISSION

ON

TAXATION

HEARINGS

HELD AT

OTTAWA

ONT.

VOLUME No.:

58

DATE:

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ROYAL COMMISSION ON TAXATION

Hearing held in the Centre Court
Room, Exchequer Court of Canada,
Supreme Court Building, Welling-
ton Street, Ottawa, on Tuesday,
the 29th day of October, 1963.

COMMISSION :

MR. KENNETH LeM. CARTER -- Chairman

MR. J. HARVEY PERRY

MR. A. EMILE BEAUVAIS

MR. DONALD G. GRANT

MRS. S.M. MILNE

MR. CHARLES WALLS

LEGAL ADVISER :

MR. J.L. STEWART, Q.C.

RESEARCH DIRECTOR:

PROF. D.G. HARTLE

SECRETARY:

MR. G.L. BENNETT



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TORONTO, ONTARIO

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Ottawa, Ontario
Tuesday 4400
October 29th, 1963

A/PB/RPS 1

2 ---ON COMMENCING AT 9:30 A.M.

3

4 THE CHAIRMAN: Mr. Secretary, it is now
5 9:30. We will commence.

6 THE SECRETARY: Good morning Mr. Chairman
7 and Commissioners. Our first brief this morning is
8 being presented by the Canadian Importers Association
9 Incorporated. We have here a group of gentlemen from
10 the Association led by Mr. A.T. Brodeur, who is the
11 President of the Association.

12 THE CHAIRMAN: The name is?

13 THE SECRETARY: Brodeur, B-R-O-D-E-U-R.
14 Mr. Brodeur is President of Cassidy's Limited, Montreal.
15 He will introduce his colleagues and give a few opening
16 remarks concerning the brief. I would like to enter
17 the brief into the record as Exhibit 234.

18

19 ---EXHIBIT NO . 234: Submission of the
20 Canadian Importers
21 Association, Incorporated.

22

23 SUBMISSION OF

24 THE CANADIAN IMPORTERS ASSOCIATION INC.

25 Appearances: Mr. A.T. Brodeur Mr. M.E. Corlett, Q.C.
26 Mr. J.T. Manley Mr. N.H. Vickery
27 Mr. S.W. Beaney

28

29 THE CHAIRMAN: Thank you. Good morning
30 Mr. Brodeur, gentlemen. We have read your submission.
Thank you. We have a few questions to put to you.



1 Before doing so let me introduce the Commission to you.
2 You see the names here before us. I would like you on your
3 part to introduce your associates to us. If you have
4 any preliminary remarks concerning the brief we are
5 prepared to hear you or if you would like to give a
6 summary. We endeavour to conduct these hearings rather
7 informally, as informally as is conducive to doing an
8 efficient job. Stand if you wish but don't if you don't
9 want to stand. We are glad to see you. Would you care
10 to proceed?

11 MR. BRODEUR: Mr. Chairman, first of all
12 let me express the thanks of our Association in making
13 it possible for us to present this brief and voice our
14 views on this subject.

15 My associates on this delegation are Mr.
16 Terry Manley, who is our first Vice-President and President
17 of F. Manley and Sons Limited, Toronto; Mr. S.W. Beaney,
18 the Association's Honorary Treasurer and President of
19 S.W. Beaney Limited, Toronto; Mr. M.E. Corlett, Q.C.,
20 Association Legal Counsel and a member of the law firm
21 of MacLaren, Laidlaw and Corlett, Ottawa and Mr. N.H.
22 Vickery, our Association Assistant General Manager.
23 As you have our brief I presume it has been read?

24 THE CHAIRMAN: Yes.

25 MR. BRODEUR: I will limit my remarks merely
26 to saying that as representatives of five or six hundred
27 members most of whom are importers we are always on the
28 lookout for possible improvement in the conditions that
29 apply to these importers and also thankful for the opport-
30 unity of studying taxation and taxes that apply to those



1 importers and thereby set the conditions under which
2 these importers will have to work. They represent an
3 important segment of the economy and as such merit
4 consideration in all aspects of taxation. I presume that
5 you will want to ask us questions so with those few
6 remarks we are at your disposal.

7 THE CHAIRMAN: Thank you, Mr. Brodeur. My
8 first question is on page 4 on tax structure. Has
9 anyone anything to raise before that?

10 COMMISSIONER WALLS: I have a question on
11 page 2.

12 THE CHAIRMAN: Yes?

13 COMMISSIONER WALLS: The bottom paragraph
14 you state:

15 "We would like to see tax incentives
16 "given to Canadian exporters."

17 Does this not, in fact, mean we would then
18 have to make concessions to other countries to make it
19 easier for them to enter into this country and that is
20 what you really wish as importers?

21 MR. CORLETT: Mr. Commissioner . . .

22 COMMISSIONER WALLS: Walls.

23 MR. CORLETT: I am sorry, I am somewhat
24 shortsighted. It is true, but it seems from Parliament
25 and tax literature that we see this matter of providing
26 exports incentives is becoming quite popular in Canada
27 over the past few years and in principle as you can see
28 from the earlier part of the brief, of course, we stress
29 the explanation that most benefits of this country will
30 extend to a large extent from increase in exports. The



1 sentence which follows that sentence we would like to
2 see tax incentives given to Canadian exporters -- we
3 do express that reservation and I think it is clear --
4 it is known to this Association that other countries
5 are going to be watching this type of conduct on the
6 part of the State moreso now than ever before.

7 I would cite as an example the Stockholm
8 Convention of 1959 which established the European Free
9 Trade Association and Article 13 of the Convention under
10 the heading of Government Aid: member states -- this
11 would be members of the E.F.T.A. should not maintain
12 or introduce: (a) the forms of aid to export of goods
13 to other member States which are described in annex C.
14 If you refer to annex C there are a number of types of
15 Government Aids that are enumerated, one of which being
16 sub-paragraph C reading:

17 "The remission calculated in relation
18 "to exports of direct taxes or social
19 "welfare charges on industrial commercial
20 "enterprises."

21 Our point, Mr. Commission, is it is our
22 opinion than in future trade agreements to which
23 Canada will be a party this matter of incentives through
24 concessions of income tax or other forms of direct tax
25 will be dealt with more specifically than has been done
26 so in the past when other countries were primarily concern-
27 ed with rates of duty and perhaps methods of valuation.

28 THE CHAIRMAN: You don't include the abatement
29 of indirect taxes within the term "incentives", do you?

30 MR. CORLETT: Well, Mr. Chairman, I take it



1 you are thinking of the non-payment of sales tax on
2 goods exported?

3 THE CHAIRMAN: I am.

4 MR. CORLETT: Well, to the extent that it
5 is possible for Canada to do this, certainly and certainly
6 they have in the case of sales tax in exported goods in
7 the past been able to do that. From the point of view
8 of Canada endeavouring to conduct the scheme Mr.
9 Commissioner Walls raised -- it might be more difficult
10 in the future to follow this programme than it has been
11 in the past on the grounds that there is in fact a
12 situation developing.

13 COMMISSIONER PERRY: You mean to follow even
14 the programme of not applying indirect tax, you think
15 this might become suspect in the future?

16 MR. CORLETT: I think it is within the realm
17 of possibility.

18 COMMISSIONER PERRY: This rather shocks me
19 because Canada has been carrying on this practice for 30
20 years, at least. There is nothing new about it.

21 THE CHAIRMAN: This practice is followed
22 by most other countries.

23 COMMISSIONER WALLS: I think there is only
24 one main trading country that adds sales tax to their
25 exports. All other countries do the same as Canada.

26 MR. CORLETT: I might also mention that
27 Article XVI of GATT dealing with subsidies -- the language
28 of Article XVI is not spelled out in the same degree of
29 detail as Article XIII of the Stockholm Convention, but
30 I believe there is the school of thought who contends



1 that export subsidies in the form of a rebate of indirect
2 taxes such as sales tax does constitute a contravention
3 of the spirit of GATT, but as far as I know the matter
4 has not been raised. We are just saying that in our
5 humble opinion this is something Canada will have to
6 contend with in the future.

7 THE CHAIRMAN: Thank you. Is there anything
8 else preceding page 4? On page 4 I would draw to your
9 attention comments which are headed "The Tax Structure".
10 While everyone is in favour of simplification and greater
11 clarity these may sometimes only be achieved at the
12 sacrifice of equity. It is sometimes difficult to do.
13 You believe that we should progress further in that
14 direction if there were a great degree of consultation
15 within the industrial organizations such as yourselves,
16 apparently. Of course what I wonder is what extent
17 you have consulted with the Government with regard to
18 tax? Have you ever offered your advice from time to time?

19 MR. CORLETT: Mr. Chairman, yes. Now,
20 the Commission will appreciate the major interest of
21 an Association of this kind is in connection with another
22 phase, namely customs tariff and that is something this
23 Commission is not dealing with, but in representations
24 which are made to the Minister of Finance and Minister
25 of National Revenue at least once a year, sometimes
26 twice a year this matter of consultation with importers
27 who have representative groups in Canada has been raised,
28 but as far as this Association is concerned we never
29 felt that we got anywhere but what we have in mind is
30 this, the nature of the Canadian economy has become so



1 complicated and the tax income is becoming so great that
2 the method in imposing taxation which might have
3 been satisfactory 20, 30, 40 years ago might no longer
4 be so, in fact we are convinced that it is not.

5 Most measures will originate, of course,
6 with the budget which is usually an annual event and
7 we recognize, of course, that the element of secrecy
8 must be preserved in connection with certain essential
9 feature of the budget such as the rate of tax or withdrawal
10 of taxes or modification of rate and so on, but it is
11 our considered opinion that the matter really has not
12 been adequately dealt with insofar as the public is
13 concerned. The budget is brought down after which there
14 is a general debate on the resolutions which are
15 introduced as part of the budget. As the Commissioners
16 know the general budget debate is one of the few opportu-
17 nities when a member of Parliament can speak on any
18 subject so that some of the efforts on the part of the
19 members don't relate to taxation matters at all.

20 After the budget regulations are improved
21 in due course the amending taxation bills are introduced.
22 Now, particularly in the case of the Income Tax Bill
23 it is a fact that what are described as technical
24 amendments are introduced in the bills that haven't
25 been mentioned or advertised in the resolution at all.

26 I am not suggesting that they should be necessarily. Then the
1 receives second reading and then the public in the whole discussion
28 and then third reading. I think a worthwhile practice
29 has been introduced in recent years since the
30 conception of the Canadian Tax Foundation of allowing



1 a period of time to elapse between the first and second
2 readings to permit an expert committee made up largely
3 of lawyers and chartered accountants to comment on the
4 provisions of the Bill. That is fine. It is our feeling
5 they should go further than that. I mean these tax
6 features affect so many people. We know the practice
7 that is following in the United States. I don't think
8 we would suggest that the American practice fit in with
9 our system of Government. I think we have in mind at
10 the House of Commons stage that the bill, that the tax
11 bills arising from the budget should be presented or
12 referred to a standing or special committee of the
13 House of Commons and opportunity given to interested
14 parties at the industrial and trade level to give their
15 views. Another method, I must admit it has been recently
16 used, is to introduce a taxation bill and then leave the
17 bill over for a session so there can be public comment.
18 That was done with the Income Tax Bill of 1948 and with
19 the Estate Tax Bill of 1958 or 1959, and that is fine,
20 but there is no organized pattern and it is our feeling
21 that the time has come when the State must give an
22 opportunity to interested parties, not only among the
23 learned professions, but people who are going to pay the
24 taxes, to express their views. As a practising lawyer
25 I rather suspect Mr. Coyne will bear me out on this, if
26 one wants to seek an interpretation of the wording of a
27 Section that has been inserted in a Tax Bill, whether it
28 be an Excise Tax Bill or Customs Tariff Bill or Income
29 Tax Bill, if one wants to know what the intention is,
30 and admittedly it is not recognized in a court of law,



1 is to look and see what the Minister has said about the
2 matter or what certain members have said. To my
3 disappointment I find in some cases Sections of the
4 Tax Bill have been passed without any discussion at all.
5 What arises from time to time, it is necessary to amend
6 a Section at the next session of Parliament. That is
7 what we had in mind when we expressed our views that
8 appear towards the bottom of the page.

9 THE CHAIRMAN: Thank you. Mr. Brodeur, could
10 you give me any explanation of whether you have in the
11 past suggested simplification and clarity which haven't
12 been incorporated in the Act or have you any specific
13 recommendations now as far as simplification or clarity
14 of the Act?

15 MR. CORLETT: I don't know. I must confess.
16 Mr. Chairman I haven't but Mr. Vickery who is more familiar
17 with the work of the Association might.

18 MR. VICKERY: I think the difficulty is as
19 far as this is concerned as I think Mr. Corlett said our
20 representations and our interests are normally in the
21 field of customs tariffs. It is a field that is normally
22 of great concern to the import trade and it is on these
23 matters that we have made recommendations and also in
24 matters concerning the Minister of National Revenue con-
25 cerning the way certain aspect of the tariff are
26 administered.

27 THE CHAIRMAN: Thank you, Mr. Vickers. What
28 are these matters that you refer to in the first paragraph
29 on page five which are at the discretion of the Minister
30 and which one should consider removing? There are very



1 few items in law that are at the discretion of the Min-
2 ister now?

3 MR. CORLETT: That is true, but they can
4 always creep in. I would refer the Commission to Section --
5 I don't know whether I am in order speaking of something
6 that is not law but it is a public inquiry and I would
7 imagine there would be no objection, but it illustrates
8 what we have in mind. If you look at Section 138A of
9 the present Income Tax Bill which is presently before
10 the House of Commons, Bill C-95, this was the new Section
11 to deal with the matters relating to dividend stripping
12 and whether or not a situation involving associated
13 companies exists.



MR/RPS 1

Here is a situation where the Minister is given discretion. Now true an attempt has been made to water that down by providing an appeal but the question is how effective would an appeal be? How far would a court go? If the Minister has acted, he has acted under his discretionary powers and as long as he has acted in good faith, I would not feel that a Judge would be inclined to reverse it.

After all, the courts always have said many times that in matters of Ministerial discretion, if the Minister has acted in good faith ---

THE CHAIRMAN: Excuse me for interrupting Mr. Corlett but I think the Minister in introducing that provision indicated that it was a second-best way of doing it. He hoped that a better solution would be found.

In the circumstances, it would seem to me it is not a very happy example of what we are speaking about.

MR. CORLETT: If it is an Act, it gets into law and you are going to have another instance of Ministerial discretion. I concede the fact that the present Income Tax Act was established in 1948 and the principle of Ministerial discretion which was so common in the case of the old Income War Tax Act was largely removed but then it is my recollection, and Mr. Commissioner Perry can correct me if I am wrong, but you take Section 138 of the Income Tax Act, the famous Tax Avoidance Section; now to my recollection Mr. Ilsley, now Chief Justice Ilsley, when he was Minister of Finance and brought that in, at one point in the debate indicated that this



1 was the type of section that can only be justified during
2 wartime and, of course, we still have it.

3 But getting into the Excise Tax field,
4 of course, you have got Ministerial discretion and of
5 course the Excise Tax Act is riddled with it.

6 THE CHAIRMAN: That is very true.

7 MR. CORLETT: Those are the three examples
8 that I can think of, and it is always possible as time
9 goes on for more to be introduced.

10 THE CHAIRMAN: Section 138 is a discretion
11 to the Treasury Board is it?

12 MR. CORLETT: Yes. The Treasury Board must
13 certainly enter the picture, where the Treasury Board
14 has decided that one of the main purposes for a trans-
15 action or transactions affected ---

16 COMMISSIONER PERRY: Before we leave this
17 matter on discussion of legislation, I would just like
18 to be clear as to what the witnesses have in mind here.
19 There are really two issues involved: Should they be
20 able to advise the Minister on what he should do, or
21 advise him or discuss before a Committee the ways in
22 which he proposes to do what he wants to do?

23 The witnesses are on all sides of this
24 question. A good many of them feel they should be
25 consulted in advance of an announcement of tax changes.
26 There can be principles involved between the stage
27 at which the consultation enters.

28 THE CHAIRMAN: You are distinguishing between
29 pre-budget and post-budget meetings?

30 COMMISSIONER PERRY: If you wish to put it



1 that way. I take it, in those terms, you are thinking
2 of post-budget discussions of measures?

3 MR. CORLETT: That, I think, is what is
4 primarily in our mind. The Finance Department, of course,
5 always have been courteous and have received us when
6 representations have been made, so that seems to be fine
7 but we are making recommendations which may or may not
8 be accepted, but I think the brief is directed almost
9 entirely to the post-budget situation.

10 MR. VICKERY: I think, really, in layman's
11 terms what we are trying to ask for there is there should
12 be more communication between businessmen and the
13 Government.

14 COMMISSIONER PERRY: We have had this in
15 terms of the increase in sales taxes on building materials,
16 for example, this very same line being put forward: There
17 should be more communication but in fact one has a
18 feeling that what people really wanted was a chance to
19 argue there should not be any increase. In fact, would
20 have loved to be consulted before the budget as to whether
21 there would be any increase or not and there are quite
22 different issues involved here. Whether you are simply
23 going to have those people looking at the terms of
24 legislation to minimize the problems in it, or whether
25 they are going to sit hand-in-hand with the Minister
26 of Finance to help him plan his budget.

27 MR. BEANEY: I don't think, sir, that we are
28 really interested in telling the Government what they
29 should do or should not do but I think that if there is
30 consultation with the various degrees of our economy that



1 the Government can avoid a lot of the pitfalls which have
2 been evident in the past where they have had to revise
3 drastically certain legislation but I do not think we
4 are, for one moment, arguing that we should be the ones
5 to make that decision.

6 THE CHAIRMAN: You wouldn't be unique if
7 you were.

8 MR. BRODEUR: In the case of building materials
9 legislation, there must have been some valid argument
10 on the part of the building materials people because the
11 tax was watered down and altered slightly.

12 COMMISSIONER PERRY: I am not trying to get
13 involved in a discussion on whether ---

14 MR. BRODEUR: Had that discussion taken
15 place prior to the bringing down of that tax, they might
16 have arrived at a formula that would have been acceptable
17 to everyone.

18 THE CHAIRMAN: Mr. Brodeur that would have
19 been prior to the budget.

20 MR. BRODEUR: Possibly, yes.

21 THE CHAIRMAN: It would have to be.

22 MR. BRODEUR: Yes, it would have to be.

23 COMMISSIONER PERRY: The Minister of Finance
24 would love to have any help in this unhappy process.

25 MR. BRODEUR: He has had it.

26 COMMISSIONER PERRY: I don't know whether
27 he wants it that badly.

28 COMMISSIONER WALLS: In the section dealing
29 with sales tax, where you state that you think it would
30 be fairer to you if they used your invoice price rather than

The first part of the paper discusses the importance of the study and the objectives of the research. It then proceeds to a literature review, followed by a description of the methodology used in the study. The results of the study are presented in the next section, followed by a discussion of the findings and their implications. The paper concludes with a summary of the main points and a list of references.

The study was conducted in a laboratory setting, using a series of experiments to measure the effects of the treatment on the response of the subjects. The results of the study are presented in the next section, followed by a discussion of the findings and their implications. The paper concludes with a summary of the main points and a list of references.

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1 fair market value for duty, surely in recent years
2 any revision of tariff has been based on encouraging
3 domestic production more than on the fact of it being
4 revenue producing, even although it does produce about
5 half a million dollars, and if such a premise is correct,
6 then is the equivalent value to the domestic product
7 not one where you should charge the sales tax on the
8 imported product based on fair market value for duty,
9 plus a duty and, in fact, as other people have recommend-
10 ed plus the cost of transportation to port of entry?

11 MR. CORLETT: I take it, Mr. Commissioner,
12 when you ask that question you have the feeling or express
13 the views of those who have the feeling that the
14 sales tax levied on the duty paid value alone would
15 be discriminatory against the Canadian manufacturer of
16 a competitive product.

17 COMMISSIONER WALLS: You are right in saying
18 that other people have made these representations to
19 us and I am just asking where you disagree that fair
20 market value should not be continued as it is today?

21 MR. CORLETT: Well the views of the Association
22 are these on this matter: normally, and in this respect
23 a number of importers have been remiss, but the complaints
24 usually arise from the Canadian manufacturing concerns.
25 Their argument is we are being discriminated against and
26 certainly that matter came up before the Sales Tax
27 Committee of which the present Chairman was also
28 Chairman back in 1955 but my recollection is that that
29 Committee found that the complaints were confined to
30 relatively small sectors of the import trade, cosmetics and





1 pharmaceuticals where articles came in in bulk and then
2 would be packaged in Canada. The importer may pay on a
3 lower basis than the Canadian manufacturer of a competitive
4 product. Then that was remedied by subsequent legislation
5 but you also have many situations where, in fact, it is
6 the importer who is being discriminated against and I
7 suppose it will never be possible to have complete
8 equality between the Canadian manufacturer and the
9 importer as long as the sales tax is levied at the
10 manufacturer's stage.

11 I suppose you would have to have a retail
12 sales tax to eliminate any possible instance of inequality.

13 COMMISSIONER WALLS: You realize, do you
14 that the retail sales tax or any of the other sales taxes
15 that have been suggested to this Commission, will move
16 the tax further forward? The tax in effect is going to
17 be charged on fair market value for duty on the duty,
18 on the transportation to our shores? In other words,
19 if you move the tax forward, then all the things that
20 you are opposed to will go into effect.

21 MR. CORLETT: We are not suggesting that.
22 We are not making this recommendation.

23 COMMISSIONER WALLS: I am just pointing out
24 that. You mentioned that if it was moved forward to the
25 retail level, and we have had many recommendations that
26 way. However, if that goes into effect I might point out
27 to you that the things that you are objecting to sales
28 tax being added to today, would then be added anyway
29 wouldn't they?

30 MR. CORLETT: Well I would take it that they





1 would, yes. We are not recommending that. I would assume,
2 certainly our experience so far would suggest that a
3 Government for tax reasons and policy would be very
4 reluctant to do that. However, that does not concern
5 this Association.

6 We are assuming that obviously there will be
7 a sales tax which is a big revenue producer, and the
8 State has to have the revenue and we are assuming it
9 will continue at the manufacturer's level but the purpose
10 of our reference in this brief is that, in effect on the
11 sales price of an imported article you tie it in with
12 the duty-paid value, then the definition of duty-paid
13 value in Section 29 of the Excise Tax Act adopts by refer-
14 ence the method of determining fair market value as it
15 appears in the Customs Act and Customs Tariff Act from
16 the point of view of dumping duty and it is our submission
17 that actually there are many situations where the fair
18 market value does not represent the true value of the
19 article at all but because of the structure of the
20 valuation section of the Customs Act, customs duty is
21 being paid on a higher value so that to that extent, the
22 importer is being hurt and the problem is intensified
23 by the fact that Canada, along with New Zealand, I believe,
24 are the only two countries in the trading world, the
25 Western trading world who still adhere to the automatic
26 dumping duty provision.

27 Of course, if the GATT agreement was ever
28 ratified by Canada, we would have to change that but that
29 is, of course, hurting many importers but if dumping
30 duty is automatically levied on goods of class or kind made





1 in Canada, of course, additional sales tax is paid on the
2 amount of the dumping duty that is levied, which throws
3 the whole thing out of kilter.

4 If the Commission was interested in obtaining
5 specific examples, I think that I would refer to my
6 colleagues who are experienced in the actual importing
7 of goods, but I think the burden of our case is that it
8 is true you may find a situation here or there where the
9 manufacturer is being discriminated against by an
10 importer, but it is our submission that probably there
11 are more situations where the importer is being discrim-
12 inated against in favour of the manufacturer, having
13 in mind the way in which fair market value is calculated
14 under the Customs Acts so therefore, it was our submission
15 that perhaps it would be fairer instead of taking the
16 duty-paid value, take the foreign selling price.

17 Now some may say that is rather fantastic.
18 It has never been done, but then maybe we are not as
19 far away from that as we think, because again if the GATT
20 principles are ratified by Canada, the fair market value
21 will have to be determined on that basis, namely, foreign
22 selling price.

23 COMMISSIONER WALLS: There is one -- I am
24 sorry, were you through?

25 MR. CORLETT: Yes sir.

26 COMMISSIONER WALLS: Immediately following
27 that, there is another problem that has been placed before
28 us by a number of other participants, and that is that
29 the importer has an advantage in that the product does
30 not carry the same advertising and administrative expenses



1 that the domestic product carries before sales tax is
2 added.

3 Now in your next paragraph you deal with that,
4 but this seems to be contradicted on the next page, and
5 I would just like to read two sentences. You say:

6 "It should be pointed out that the
7 "foreign manufacturer's invoiced selling
8 "price contains all the usual items of cost
9 "that enter into the domestic manufacturer's
10 "selling price, such as advertising and
11 "selling costs, in addition to the manufactur-
12 "ing and overhead costs of the goods
13 "themselves."

14 Then on the next page you say:

15 "In other export markets the importer
16 "is allowed a lower price than the home
17 "market dealer, because, of course, the
18 "importer does not benefit from selling
19 "costs, such as advertising that are assumed
20 "by the manufacturer."

21 Are these two statements not inconsistent
22 or is my interpretation of them incorrect?

23 MR. VICKERY: In our point of view they are
24 not inconsistent. We are really talking about two
25 different things. In the first place we are talking about
26 the exporter's selling price includes advertising costs.
27 These are advertising costs that he bears in order to
28 advertise his produce in his home market, but the
29 importer has to pay these costs, because they are included
30 in the price.





1 The other variation is the fact that the
2 importer, if he wishes to market his product in Canada,
3 is then obliged to advertise his goods in Canada. So,
4 therefore, he then has an additional advertising cost
5 to bear in this country. In our view the two things
6 are not contradictory. We are talking about (a) advertis-
7 ing that is done in the domestic market which the
8 importer has to pay for and (b) he also has to pay for
9 advertising in his own country.

10 COMMISSIONER WALLS: Well now this is a point
11 I think we would like to get clarified: To what extent
12 is the advertising done, by the people that export to
13 you, in national magazines in this country?

14 To what extent does the advertising have to be carried
15 by the domestic importer. I mean the Canadian importer?
16 For instance, we see like Volkswagen advertising in
17 national magazines. Now we hear conflicting stories as
18 to whether that advertising is paid by the Volkswagen
19 Company, the exporting company or whether it is paid
20 by the dealers in this country. That has a bearing as
21 to who is carrying the heavier load on the sales tax.

22 MR. BRODEUR: I can answer that Mr.
23 Commissioner in the lines with which I am most familiar.
24 We import from countries all over the world. In dealing
25 with English exporters to this country, I can say that
26 the largest portion of English manufacturers take a
27 very dim view of advertising their product in this
28 country, or for the benefit of Canadian consumers.

29 They are not attuned to advertising very
30 much. In dealing with merchandise from the United States,



1 the reverse applies. They will advertise in domestic
2 reviews and consumer periodicals so that the Canadian
3 importer does get the benefits of that advertising.

4 In the case of imports from Japan, Hong Kong,
5 from many countries of the Far East, their advertising
6 worth in Canada is nil. There is no such benefit at
7 all to the Canadian importer on merchandise from these
8 countries so although the cost of advertising and of
9 sales promotion, et cetera et cetera is certainly in
10 the cost of the goods before they are shipped out of the
11 exporting country, the Canadian importer gets no
12 benefit from them in most instances and he has to add
13 on to the cost of the imported article his own costs of
14 advertising and sales promotion.

15 COMMISSIONER WALLS: But then he adds it on
16 after he has paid the sales tax as against the domestic
17 manufacturer who has to include his advertising costs
18 before he adds sales tax?

19 MR. VICKERY: It is already paid, sales
20 tax on advertising costs. The importer has.

21 MR. BEANEY: Then too, sir, the advertising
22 here is taxable in most cases so you are paying for
23 domestic advertising. At least I am, I don't know about
24 anybody else.

25 THE CHAIRMAN: Do you follow that?

26 COMMISSIONER WALLS: Yes. What you are
27 stating is that the advertising is paid for as the sales
28 tax is added on by the agency that gets out the advertising.
29 Is that what you say?

30 MR. BEANEY: Correct.



RPS 1 MR. MANLEY: May I say, Mr. Commissioner, that
2 as far as I can see the key problem is that the importer
3 is paying sales tax on goods that already include consider-
4 able advertising and some expenses in the home market
5 of the exporter. We are paying sales tax on higher
6 value because of these costs which again have to be
7 duplicated in Canada anyway, but we are paying on a
8 higher cost.

9 COMMISSIONER WALLS: Thank you.

10 THE CHAIRMAN: I would presume that sales
11 tax should seek out neutrality between imported and
12 domestic-manufactured goods. I would think that the
13 point of neutrality is after duty is applied because
14 the duty is a condition which is added to imported goods
15 so as to put them on the same level as manufactured
16 goods, at least I would think that was so.

17 MR. MANLEY: May I speak to that, sir?

18 THE CHAIRMAN: Please do.

19 MR. MANLEY: Unfortunately that is not
20 wholly the case. On the contrary many, many items in
21 the tariff that are simply revenue producing, for example
22 machinery of a class or kind not made in Canada, duty
23 seven and a half per cent -- obviously we are paying
24 sales tax on the duty-paid value and there is no
25 equivalent manufacture admitted. I think it is admitted
26 there is a good deal, I don't know how much, but some
27 revenue in all the tariffs in addition to the protection
28 it might be providing. For example a class and kind
29 made in Canada, the difference is in this particular
30 item, seven and a half per cent not made in Canada and



1 22 per cent made in Canada and even on not made in Canada
2 there is a built-in seven and a half per cent revenue
3 factor, so again the sales tax is being applied to that
4 revenue factor.

5 THE CHAIRMAN: Thank you. Should it be
6 desirable to use the selling price of goods imported
7 rather than the fair market value, would administrative
8 difficulties arise in getting at the selling price or
9 not?

10 MR. BRODEUR: It would be the invoiced price.

11 THE CHAIRMAN: I would think so, but the
12 duty is collected at the border and the sales tax is
13 applied on the import forms, I believe.

14 MR. BRODEUR: Yes, on the basis of the
15 invoice, of the transportation invoice.

16 THE CHAIRMAN: Could that be developed
17 perfectly satisfactorily in using selling price?

18 MR. VICKERY: There wouldn't be any actual
19 difficulty if it is so allowed because the customs
20 invoice has two columns, one is the fair market value
21 and the other is the selling price to the purchaser in
22 Canada.

23 THE CHAIRMAN: Thank you. Have you any
24 further questions?

25 COMMISSIONER WALLS: Not on sales tax. With
26 respect to the dumping duty, first of all, Mr. Corlett,
27 you intimate that if Canada signed GATT, and of course,
28 there would also have to have a proviso that our main
29 customer would have to sign GATT, which would be the
30 United States -- well I haven't got the provision in



1 front of me surely GATT provides for dumping?

2 MR. CORLETT: Yes, it does, Mr. Commissioner.

3 There is another proviso. You have as we have now --
4 we have an automatic dumping duty provision, if the
5 selling price is less than the fair market value in the
6 country of origin then automatically dumping duty must
7 be imposed but the provision of GATT and the provision
8 followed by, well, certainly the United Kingdom, and
9 I will refer you to a document by a much more learned
10 person on this subject than myself in Canada, but the
11 dumping duty provision in Article 6, sub-Item 1:

12 "The contracting parties recognize
13 "that the dumping by which products of
14 "one country are introduced into the
15 "commerce of another country at less than
16 "the normal value of the products is to
17 "be condemned if it causes or threatens
18 "material injury to an established industry
19 "in the territory of a contracting party or
20 "materially retards the establishment of
21 "a domestic industry."

22 You have a second test you have to meet.

23 COMMISSIONER WALLS: Is it not a fact --
24 you are talking about automatic dumping duty. Is it not a
25 fact that in many of our provisions it is not automatic
26 at all, in other words an investigation has to be
27 carried out by the Government as to whether the price
28 is indeed lower than the prevailing price in the country
29 of origin?

30 MR. CORLETT: Well, yes, the Canadian Customs



1 would have to carry out that investigation which in many
2 cases wouldn't be that difficult. They don't have to
3 worry about the fact of whether an article that is being
4 dumped is hurting anybody in Canada. I would refer you
5 to a rather interesting publication that came out during
6 the last month of so by Mr. Dana Wilgress, who I suppose
7 would be deemed to be one of the leading authorities
8 on the working for the Canadian tariff and former
9 civil servant of distinction. This was a publication
10 that he wrote for the Canadian Trade Committee under the
11 auspices of the Private Planning Association of Canada
12 and its American counterpart and it is entitled
13 Canada's Approach to Trade Negotiations. At page 59
14 under the heading of Automatic Dumping Duty he states:

15 "Consideration should also be given
16 "to abolishing the automatic feature of the
17 "Canadian anti-dumping duty".

18 He indicates how it was introduced back in
19 1904 by the then Minister of Finance, but on the next
20 page, page 60 he states:

21 "Many countries have followed the
22 "Canadian example and imposed anti-dumping
23 "duties, but only in the case of New
24 "Zealand has the automatic feature of the
25 "Canadian law been copied. Other countries
26 "require proof of injury to the domestic
27 "industry to be established before anti-
28 "dumping duty can be applied."

29 COMMISSIONER WALLS: Is it not a fact in
30 that the only reason that we are talking about



1 dumping duty is because of its affect on sales tax -- this
2 Commission isn't interested in dumping duty as such.
3 If you didn't have the automatic function then you create
4 a delay, in other words a product can come in and be
5 sold against your domestic product and then it can
6 be protested against, an investigation started which may
7 only be reported on six months later, and in the meantime
8 the product continued to be sold in this country to the
9 harm of our domestic producers. Is there not a great
10 deal to be said that, if you are going to have an
11 effective dumping duty at all it ought to be automatic?

12 MR. CORLETT: No, in cases where a competitive
13 Canadian industry is materially injured, to use the
14 words of Mr. Wilgress, I would agree. I don't think this
15 Association has ever gone on record as opposing the
16 principle of dumping duty but it has been developed
17 in our submission that in many cases come to our
18 attention from time to time there is no evidence of
19 anybody having been hurt, and bearing in mind to be
20 considered to be an article or a class or kind made
21 in Canada the requirement is only ten per cent of the
22 normal Canadian demand emanating from Canadian production you
23 have a situation where dumping duty is applied although
24 nobody has been hurt except the importer and the
25 exporter, and the fact is and this is mentioned in Mr.
26 Wilgress' authoritative statement that the British
27 are getting very exorcised about the automatic dumping
28 provisions that still continue in our law because this
29
30



1 is hurting their legitimate interests.

2 COMMISSIONER WALLS: Thank you.

3 MR. MANLEY: A few moments ago you made
4 reference to the necessity of investigation to show whether
5 fair market value is higher than the price to Canada.
6 I think that only exists if a false statement is made
7 on the inspection invoice. I believe there are some
8 instances where the exporters have claimed that the
9 fair market value is the invoiced price in which case
10 the Government would conduct an investigation. I think
11 if an exporter states a different price, a fair market
12 value is \$1 and exported for 90¢, I am sure that the
13 dumping duty would be automatic without any investigation.
14 It is only when there is a mis-statement or false
15 statement made on the customs invoice that there has
16 to be an investigation.

17 COMMISSIONER WALLS: That is the point I
18 am getting at. I don't want to pursue the subject
19 unnecessarily. If there is protest by the producer
20 or manufacturer in this country -- there may be no
21 misinformation -- if it enters the country harmfully
22 to a local manufacturer or producer and is at a price
23 less than the price prevailing in the country of origin
24 then they can start an investigation and maybe that
25 takes six months.

26 MR. BRODEUR: They could start an investigation
27 irrespective as to whether it is hurting the domestic
28 industry. It is a mathematical problem at the moment.
29 Our philosophy is that the application of dumping when
30 it is not hurting the domestic industry is wrong in



1 principle and this is what we suggest should be changed.

2 COMMISSIONER WALLS: Thank you.

3 THE CHAIRMAN: Moving on to your proposal
4 for a Sales Tax Board, which I find interesting, I recall that
5 certain sales tax matters may be appealed as things now
6 stand to the Tariff Board. Presumably you would substitute
7 this Board for the Tariff Board and, also, I suppose
8 refer sales tax matters to this Sales Tax Board which
9 would be quasi-judicial, which would be cheap and from which
10 I suppose, there would be no appeal. Would you care to
11 speak to that?

12 MR. CORLETT: I don't think we would go quite
13 that far, Mr. Chairman. I think the members of the
14 Commission know quite well by now that the right of appeal
15 that exists in Section 57 of the Excise Tax Act is an
16 extremely limited one and there are all kinds of
17 instances where there is no right of appeal at all.
18 In making this suggestion, of course, we want it clearly
19 understood that our sympathies lie with the sales
20 tax administration. I think they should be commended
21 for doing so much very "fairly" with such poor
22 tools. As a matter of principle it is our suggestion
23 that the right of appeal should exist, and of course
24 we have this problem in connection with custom tariff
25 matters and this Association was making representation
26 to the Government before you had a limited right of
27 appeal to the Tariff Board prior to 1948. Although we
28 talk of a Sales Tax Board it is our feeling in that
29 that this Commission would be in a better position to
30 know whether from an administrative point of view if it was



1 agreed the right of appeal should exceed the wide base
2 under Section 57. This Commission would know whether
3 such power could be carried out, responsibilities carried
4 out by the customs tariffs or the tax appeal board --
5 this is something that is beyond our jurisdiction but
6 we believe that there should be a right of appeal and we
7 go back to what I would consider to be the most fundamental
8 contemporary statements on the issue; namely the report
9 of the British Committee on Ministers' powers where at
10 page 6 this matter of appeal from what is called
11 Delegated Legislation -- Parliament delegates to
12 Department or to administer by statute the right to make
13 decisions and the Commission has in this closing statement,
14 closing report described it as such and state; and I quote:

15 "Experience has also shown that in the
16 "course of delegating these very wide powers
17 "to Ministers Parliament often entrusts
18 "them or persons appointed by them with the
19 "right and duty to take decisions, which
20 "determine the rights of private persons
21 "and deprive them of their access to the
22 "Courts of Law."

23 They go on to say in the same order and this
24 Association would agree with this:

25 "We do not doubt that in the exercise of
26 "the judicial and quasi-judicial powers
27 "of Ministers justice is as a general rule
28 "substantially done; but it should always be
29 "remembered that justice is not enough. What
30 "people want is security for justice, and the



1 "only security for justice is Law,
2 "publicly administered."

3 Then finally in their conclusion on page 62
4 of the report the Committee finds as follows:

5 "Apart from emergency legislation, we hardly
6 "think there can be any case so exceptional
7 "in its nature, as to make it both politic
8 "and just to prohibit the possibility of
9 "challenge altogether."

10 Flowing from this report of course we have
11 the more recent to the Ontario Government where similar
12 reference could be found, and coming closer to home in
13 Ottawa then you have the report of the Special Committee
14 to the Senate on the Income War Tax Act which I am
15 sure the Chairman and Mr. Perry will remember where in
16 the final report they took the same view. This is
17 the view this Association has taken and we have taken
18 it in connection with tariff matters. Importers are
19 quite happy with it when they had the right to appeal.

20 COMMISSIONER WALLS: Under conditions
21 that have to do with points of law you have still access
22 to the senior courts and you would wish that to be
23 continued?

24 MR. CORLETT: Yes, appeals to the Sales Tax
25 Board would be on matters of fact on limited right and
26 appeal thereafter on points of law to the Exchequer
27 Court or Supreme Court.

28 THE CHAIRMAN: That was my concern. If you
29 recall when the Income Tax Board was introduced it was
30 hoped to be a readily accessible and very cheap court. Some



1 people have complained that that has been frustrated to
2 some extent by the need for there to be a court record
3 and to conduct its proceedings so as to make an appeal
4 possible. Would that type of court satisfy your
5 recommendations here?

6 MR. CORLETT: A court such as the present
7 Tax Appeal Board?

8 THE CHAIRMAN: Yes.

9 MR. CORLETT: Yes, because the jurisdiction
10 of the Tax Board is even wider than is this.

11 THE CHAIRMAN: Yes. I was concerned about
12 your request that it be a cheap, quasi-legal body readily
13 accessible to the businessman.

14 MR. CORLETT: Yes. The individual businessman
15 can take his own case to the Tax Appeal Board just as
16 the importer can take his case to the Tariff Board. I
17 am not saying he would be well-advised to do so, but
18 the fact he has the right to do this seems to have a
19 certain psychological benefit.

20 THE CHAIRMAN: I am asking whether that type
21 of Board is really what you are recommending here?

22 MR. CORLETT: Yes.

23 COMMISSIONER PERRY: Mr. Corlett, can
24 you visualize a Board of this kind functioning with the
25 Excise Tax Act in its present condition?

26 MR. CORLETT: Well, Mr. Commissioner, as
27 the Excise Tax Act is presently worded, of course not.
28 It just couldn't be done because the element of ministerial
29 discretion is still there. We merely state that in
30 whatever form the Excise Tax Act eventually appears as a



1 result of recommendations of this Commission will mean
2 there will be a larger right of appeal.

3 COMMISSIONER PERRY: In other words we need
4 some law on which this Board can adjudicate.

5 MR. CORLETT: Yes, but with the wealth of
6 talents available to the Government of Canada I don't
7 think we taxpayers are so much concerned with that. If
8 as a matter of principle they want to do that I am pretty
9 sure that means can be found.

10 COMMISSIONER PERRY: My question was serious
11 as to whether you thought there was any Board that could
12 function with the present type of legislation?

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RPS

1 COMMISSIONER PERRY: I was almost sure
2 you were going to say this was not the case, but it
3 is conceivable that one could have a Board reviewing
4 the kind of discretionary rulings that are now given
5 within the Department but that isn't what you have in
6 mind I don't suppose?

7 MR. CORLETT: Well no, as a matter of
8 principle certainly on matters which would affect the
9 quantum of tax we would be opposed in principle to
10 ministerial discretion. Now I think, admittedly, there
11 must be a number of administrative situations where the
12 Minister or the Department would have to exercise
13 discretion. We are not quarreling with that. We are
14 not saying ministerial discretion must be eliminated
15 100 per cent, because I think that would be an
16 impossibility. When you come to taxes under the present
17 Excise Tax Act, the determination of the sales price
18 with this notional price that of necessity must be
19 established, we know there is no right of appeal at
20 all.

21 COMMISSIONER PERRY: I was interested in
22 your quotations from these reports. I didn't think they
23 were too relevant because they all spoke of delegated
24 powers. These are not delegated powers. They are
25 powers which have been assumed by the administration
26 in the interest of the taxpayer, for the most part.

27 MR. CORLETT: The type of section that I
28 was thinking of especially, and I am not aware of it
29 having been used very much, but it is there, Section 37
30 of the Excise Tax Act.



1 COMMISSIONER PERRY: I am just saying in
2 the matter of such discounts, no one has delegated this
3 power to the administration.

4 MR. CORLETT: No.

5 COMMISSIONER PERRY: They have just assumed
6 it.

7 MR. CORLETT: But that makes it worse from
8 our point of view. I think the Commission can see what
9 this Association has as a matter of principle. Now we
10 have not attempted to spell that out. I don't think that
11 is within our rights, but I think these represent the
12 views of this Association.

13 THE CHAIRMAN: I think that probably is
14 all the questions on your submission. We are indeed
15 most grateful to you, Mr. Brodeur, Mr. Corlett and
16 gentlemen. It has been very helpful and we will consider
17 further your submission. Is there anything else you
18 would like to say to us?

19 MR. MANLEY: May I just say one word? This
20 may not be within the scope of the Commission, but it
21 is of concern I think to importers that in the future
22 the amount of revenue to be obtained from customs
23 duties is apt to be lower as a percent of the whole
24 because of the trend towards lower duties around the
25 world and undoubtedly this Commission must give
26 consideration to this fact that as a percent of total
27 revenue, customs duties will be undoubtedly lower.

28 I know customs duties are not part of the
29 question.

30 THE CHAIRMAN: Thank you very much. You are



1 quite right, we must be concerned, obviously, with the
2 total amount of revenue of all sorts available to the
3 Government.

4 MR. BRODEUR: Mr. Chairman, and Commissioners,
5 I want to thank you for the opportunity of presenting
6 our brief and for your patience in dealing with all
7 the questions therein. Thank you very much.

8 THE CHAIRMAN: Well we thank you too. We
9 are very grateful. Good day.

10 We will stand over for 10 minutes.

11
12 ---A SHORT RECESS.

13
14 ---FOLLOWING THE SHORT RECESS:

15
16 THE CHAIRMAN: All right Mr. Secretary.

17 THE SECRETARY: Mr. Chairman, Commissioners,
18 the second submission this morning is being entered by
19 the Canadian Export Association. Mr. T.A. Lindsay,
20 Chairman of the Association and President of Phillips
21 Electric will speak first to this brief and introduce
22 his colleagues followed then by Mr. J.M. McAvity,
23 President of the Association.

24 I would like to enter this brief into the
25 record as Exhibit 235.

26
27 ---EXHIBIT NO. 235:

Brief of the Canadian
Export Association.



SUBMISSION OF

THE CANADIAN EXPORT ASSOCIATION

Appearances: Mr. T.A. Lindsay Mr. H. Hughes
Mr. J.M. McAvity Mr. E.L. Hamilton
Mr. W.S. Rothwell Mr. P.D. Wilson

THE CHAIRMAN: Thank you Mr. Secretary.

Good morning gentlemen. I am delighted to see you organized to the point where we have your names in front of you. This is the first time this has occurred and I commend you for it. It is helpful all around. Very good idea if everybody else were to do the same thing.

We have read your submission with considerable interest. I might say I read it in this form last night, and I read it again with my breakfast this morning. It is a good submission and of interest, a great deal of interest to us. We will have questions. Before doing so, Mr. Lindsay, I think you were to state a few words to us.

MR. LINDSAY: Thank you Mr. Chairman. Mr. Chairman, members of the Commission, may I first of all express the thanks and appreciation of our Association for this opportunity to appear before you and to supplement, with verbal comments, the views which are already expressed in our brief. I really don't need to introduce the delegates other than perhaps to indicate the offices which they hold in their respective companies.

Mr. McAvity is the leader of our delegation and is President of the Canadian Export Association.



1 Mr. W.S. Rothwell is vice-president of Abitibi Power
2 and Paper Company. Mr. W. Hughes is manager of General
3 and Tax Accounting, Canadian General Electric Company
4 and Mr. Eric L. Hamilton, vice-president of Canadian
5 Industries Limited and Mr. P.D. Wilson, vice-president,
6 Aluminium Securities Limited.

7 Mr. McAvity generally has been responsible
8 for the preparation of our brief and I would now like
9 to ask him to say a few words and give you a summary.
10 Thank you.

11 THE CHAIRMAN: Thank you.

12 MR. McAVITY: Mr. Chairman, members of the
13 Commission, may I first say that I wish to plead guilty
14 of contempt and to offer my sincere apologies for
15 an error which happened despite the best-laid plans.
16 I can explain it very briefly. The long 17-page item
17 was not sent out in the mail because we are hard up,
18 our brand new re-organization -- these were sent out
19 on September 9th, over that period when we submitted
20 our brief to you. It was stated for publication only
21 October 29th and as soon as we received the time, we
22 had the word "noon" in brackets after that. Copies
23 of it went to the press. However, I take full responsib-
24 ility for the error and I wish to register my sincere
25 apologies for the breach of conduct and of your
26 instructions to participants.

27 THE CHAIRMAN: Your apologies are certainly
28 accepted. We do not think there have been any grave
29 consequences and I think we can say that we are not
30 unduly upset about it.



1 MR. McAVITY: Thank you. I would like to
2 say a few other words of introduction, if I may. The
3 Association began its re-organization last spring. We
4 have not been retaining counsel, either legal or economic
5 on a continuing basis. The Policy Committee, with which
6 a number of executive firms are involved, agreed we should
7 be represented by people with greater-than-average
8 experience in tax matters from member companies.

9 I would like to express my gratitude to these
10 four gentlemen for appearing with us today and also,
11 at the same time, to acquit them of responsibility. None
12 who has actively participated on the Committee has been
13 responsible for the preparation. We have had discussions
14 on it but there are, as you know sir, a good many
15 categories of export people in the community, some
16 from large primary extractive industries who came here
17 for no other purpose than to export. At the other end
18 of the scale we have the relatively small, fairly
19 recently established subsidiary companies in many cases
20 who came here to provide goods solely for the Canadian
21 market. Changes in conditions recently, in which I
22 can include the very successful promotion work done
23 by Government, industrial and trade development people,
24 conditions having to do with the currency exchange
25 rate have allowed a great number of people to export a
26 little.

27 We have between those broad extremes of
28 membership a very wide range of heavily diversified
29 types of industries. For this reason sir it is obvious,
30 as I said in my submission, that we cannot submit a



1 unanimous view on so many subjects.

2 However, there is one factor, or one
3 common denominator perhaps that runs through the whole
4 thread of our membership, the fabric of it, throughout
5 all segments from the primary down to the consumer,
6 manufacturer, secondary manufacturer type. There are a
7 number I would say, a majority in almost every particular
8 segment of industry who are foreign-controlled.

9 I would say that -- we have not got actual
10 figures, nor does any Association normally have sales
11 figures from member firms, but a good percentage of
12 Canada's non-agricultural exports would be made by
13 Canadian basis of International Corporations. These
14 are mostly American, a growing number of European but
15 I would like also to call attention to the fact that
16 in this field, rapidly developing International
17 Corporations, there are a great many that are based in
18 Canada largely owned by Canadians and these are having
19 a more significant effect all the time on our economy.

20 In this particular area we have complete
21 unanimity of opinion. That unanimity is the conclusion
22 which we have reached here expressed in our summary,
23 and I would quote from that:

24 "That the Canadian tax structure should
25 "be one that will be more encouraging to
26 "decision makers', be they Canadian or
27 "foreign, to produce more goods in Canada
28 "for export."

29 Thank you sir.

30 THE CHAIRMAN: Thank you indeed Mr. McAvity.



1 One thing that you have said to us right now, of course,
2 is of extreme importance and that is that a fair
3 percentage of Canadian export comes from the Canadian
4 part of International Corporations.

5 We have, in Canada, been very much concerned
6 with foreign ownership and as far as I have been able
7 to see from the papers and general comment, the main
8 concern has been that it affects our export policies,

9 I suppose one must concede that this does
10 have an effect on the export policies of those foreign
11 companies. Am I not correct?

12 MR. McAVITY: To be quite truthful sir,
13 I am not yet in a position to speak authoritatively on
14 that. I was going to state at some later time in this
15 area and I think perhaps now is the time to do it, that
16 I have since June 13 visited 68 presidents of subsidiary
17 companies -- in some cases the company had head-office
18 officials from other countries, not all American. That
19 has been an unofficial public opinion survey, if you
20 like, a private opinion survey because they have been
21 very private about this. This has had to do with recent
22 budget measures. Obviously, in my questions I have
23 talked about export policy.

24 There are a great many primary extractive
25 industry people who could not possibly alter their
26 export policies for the better. Some are now exporting
27 100 per cent and yet the contents of the budget pertain
28 to them as well as the small secondary manufacturer
29 and some in between who have been here since the dawn
30 of the century and some before that, 1893 in the case of



1 one large one in the hard goods field, consumer goods.
2 They came with relatively little imported capital and
3 out of funds generated in this country from the earnings,
4 that subsidiary has now reached a multi-plant operation.
5 They have their export business I wouldn't say solely,
6 I might use perhaps only primary, but certainly very
7 largely on account of the fact that they are international.
8 They would not have the connections overseas or in the
9 United States, they would not do this business otherwise.
10 This applies in a great many of the large secondary
11 manufacturing firms. It is because of this we are really
12 trying to get to the bottom. In a letter we
13 wrote to the Minister of Finance, following his first
14 budget, we said that we had access to and we would
15 try and uncover, if we could, ways and means of improving
16 export policy without running the risk of offending
17 foreign investors. This we have sincerely tried to do
18 and are still in the process of doing.

19 THE CHAIRMAN: You are continuing?

20 MR. McAVITY: Yes, we are sir.

21 THE CHAIRMAN: Would you have any further
22 information on this subject which might be available
23 to us? If we are going to recommend tax policies we,
24 of course, are concerned that they should be such as
25 will encourage export -- we are required to do so.
26 I cannot think of anybody better to advise us than
27 yourself.

28 MR. McAVITY: I would say this sir, that there
29 will be a meeting of our Policy Recommendation Committee
30 in the next two weeks, two weeks from now. This will be



1 brought up. Whether we do it in the form of a questionnaire,
2 something which would be a little more factual or
3 authoritative, it would be decided then. I will recommend
4 that we do it.

5 Secondly, I would state sir there will be
6 available at or about the end of this year from a
7 gentleman in Toronto, an economist who is preparing
8 a report for another organization and therefore I think
9 we should not make it public here, involving a very
10 large questionnaire including the social, cultural
11 aspects, as well as business. He has been in the course
12 of interviews over a period of three years and has talked
13 to some 350 subsidiary operators in Canada.

14 We, shall we say, are negotiating for the rights
15 to that part of the report pertaining to export policy.
16 This may be available from him in the New Year from the last
17 report from this particular economist.

18 THE CHAIRMAN: Thank you. This sounds
19 extremely interesting. It would be useful to us, I
20 believe. My first question will relate to sub-paragraph
21 B on page 4, 1(b) where you recommend a reduction of
22 at least 10 per cent and preferably by 10 points in the
23 corporation tax rate.

24 You point out there is a difference of opinion
25 as to how far the tax is passed on in the selling price
26 and also as to the possible effect on prices of any given
27 cut in the tax rate.

28 I am, of course, curious as to whether if
29 one took the maximum, bringing down corporation tax rate
30 to about 40 per cent, to what extent that it would help



1 you in competitive bidding in an International market?

2 I suppose it would be of some help, but I do not imagine
3 that the whole 10 per cent points would be set aside
4 for this purpose. I would rather expect that of the
5 10 per cent points, ~~five~~ might go out in increased
6 dividends to make investment in the companies more
7 attractive, so that one's equipment would be renewed and
8 one would be in a better competitive position. Speaking
9 very broadly, of course, this is what one has built up
10 and if that was the case, the net profit or the net
11 available profits for purposes of negotiating would be
12 considerably less than that, but would one, in bidding
13 on world markets if the tax rate were lower, be more
14 flexible in bidding? Would they be able to reduce
15 prices? I don't suppose in the case of Mr. Rothwell's
16 company it would make an awful lot of difference because
17 they are committed for quite a period ahead, I think.

18 However, some new contracts I suppose they
19 bid when there are new contracts. I don't know how
20 one goes about it. Would a better profit be of assist-
21 ance to the paper business or would that not apply or
22 would it be of assistance to other businesses?

23 MR. McAVITY: I would like to take a quick
24 shot at it and leave it to the tax officials of member
25 companies, but in my own experience I have found two
26 different -- starting with one extreme, there are a lot
27 of primary industry people who are meeting world
28 competitive prices. The world fixes prices, not Canada,
29 even though they may be large, major suppliers of world
30 demand, in these cases it is very doubtful, I haven't found



1 one even speaking to the subject of the price -- the effect
2 taxes might have on prices.

3 It was clearly the shareholders who would
4 be the one element who would benefit of the three classes
5 of people that might be involved in the corporate tax
6 rate, customers, shareholder, employee and I think here
7 the shareholder would be the one.

8 At the other end of the ladder, I can tell
9 you of some examples particularly in the electrical
10 and other appliances fields where we have relatively
11 small volume but as indicated by Mr. Roberts in this
12 pamphlet to which I have referred, 10 points could be
13 possible to have a saving of 20 per cent, roughly five
14 per cent retention after taxes; might put one per cent
15 to the pot. On the sales dollar one per cent is by
16 no means going to be adequate to make them consider.

17 The remarkable thing to me is how many
18 manufacturers are exporting today for the love of it,
19 or shall we say to cover overhead and try to produce
20 volume by collecting what additional markets they have
21 in between. However, I would like to state this, that
22 I can mention a number of different types of industries,
23 one is in metals, the other is in chemicals, where the
24 profit margin is at one to two per cent.



RPS 1 I have two specific examples. One, the
2 vice-president of one large chemical company told me
3 for a number of years after the war his company was
4 selling chemicalsto India and the price was so competitive
5 that an increase by the Shipping Conference that handled
6 that trade would have made it impossible for them to
7 do that business and even make a nickel on the deal.
8 They stopped that business and it hasn't come up since.
9 In my case on June 15th of this year having to do with the
10 salesatax applicationonthe consumable expendable products
11 whichwaslater withdrawn wasI talked to others and one
12 industry lawyer actually produced figures to the
13 Minister of Trade and Commerce and figured that their
14 average profit in recent years ranged from one to three
15 per cent. on them.

16 THE CHAIRMAN: Could we ask you one question
17 on this point because we are dealing with a term I
18 don't fully understand. What is the meaning of the
19 word "profit" as used in this context? I would assume
20 that it means that export business improves a company's
21 profit on the whole. That may mean, of course, that there
22 is little more return then. It doesn't necessarily mean
23 that one apporitions all his costs and gets more return
24 on export business, does it?

25 MR. McAVITY: Not being a chartered account
26 I wouldn't challenge it. I would be glad to, and I have
27 permission, to, not publicly, but to table this with your
28 secretary. I know this company will be very happy to
29 answer any questions you have.

30 COMMISSIONER WALLS: I would like to interject



1 a question right now with regard to your recent statement
2 of the many manufacturers engaged in export business in
3 order to improve volume and the fact that the prices are based
4 on world ~~prices~~ and the margin is very small. By that
5 do you mean that these exporters are selling on the
6 foreign market at prices lower than they are obtaining
7 on our domestic market in the same product?

8 MR. McAVITY: I would prefer some of our
9 company officials answer that. They could give you
10 representations better than I could. I could answer but
11 I would like to give these gentlemen a chance. Would
12 you take a crack at that?

13 MR. ROTHWELL: Might I make two points: firstly
14 the Canadian Pulp and Paper Association is to make
15 an appearance before this Commission. I would like to
16 make the point that I am not speaking for the Canadian
17 Pulp and Paper Association. If I may backtrack to one
18 of the Chairman's questions and then come to yours.

19 The Chairman's question was in the event of
20 a tax cut would it result in more export business and
21 sharpening of export prices. My inclination would be
22 that I think that the benefits to Canada would be
23 indirect rather than direct. I would believe that the
24 that the Canadian exporter rather than sharpening price
25 directly as such would tend to increase his margin of
26 profitability on those sales which would react back to
27 the general health of the manufacturing company and might
28 conceivably react in part in dividends to shareholders.
29 It would certainly react in the activity of the
30 company, to improve its manufacturing facilities through



1 retained earnings and to expand or to become more
2 competitive. I believe that the reaction to lower or
3 somewhat lowered income tax to the exporter would be
4 an indirect benefit on Canada and the Canadian economy
5 rather than a direct effect in prices. This is the way
6 I would think it would shape up.

7 Now, the second question had to do with the
8 pricing of export sales. Most Canadian exporters who
9 sell in foreign lands, more sell at the prevailing price
10 in that foreign country, and they must sell with a product
11 that is equal in quality et cetera with the competitor.
12 This tends to mean that the transportation bill from
13 Canada to the foreign country is paid for by the
14 exporter so that the price at which a quotation is made
15 is very frequently above the price for which the commodity
16 sells in Canada. The cost of transporting to the market
17 is such that the net return to the manufacturer could
18 be quite substantially lower, but this depends in part
19 on the location of the manufacturer in Canada. If the
20 manufacturer has an inland location and if the commodity
21 being sold is bulky and costly to transport the
22 manufacturer has to absorb the rail freight to the
23 sea port, at the sea port and on to the ocean-going
24 vessel and so on and generally, the point of sale is
25 point of delivery by the ocean-going vessel, so I believe
26 that the most important factor of this is transportation
27 costs which, of course, is a pretty important thing to
28 Canadian manufacturers.

29 MR. HAMILTON: If I may add, Mr. Chairman,
30 I agree with Mr. Rothwell. There is one additional cost



1 we in our business run into. That is commission to the
2 selling agent in a foreign country where you use an
3 agent, local resident to handle your goods. He must be
4 reimbursed, recompensed for his efforts. That is in
5 our case an added cost. That is a thing in our company
6 we do ourselves in Canada. I would agree with Mr.
7 Rothwell in general our realization on export sales of
8 basic chemicals is less than they are in Canada due to
9 these additional cost factors. Another one applying to
10 us is special packaging for ocean shipments of chemicals.
11 These are additional costs which are incurred to reduce
12 the realization at our plant in Canada.

13 THE CHAIRMAN: That is, of course, helpful.
14 What I was really seeking is any evidence, any statement
15 in support of the fact that with lower taxes one would
16 be in a position in the world markets to compete more
17 effectively with regard to price. No matter what your
18 product is I suppose there comes a time where you are
19 quoting and bidding against other people and the fact
20 there happens to be a world price doesn't usually mean
21 that there is no finesse in bargaining whatsoever.
22 Generally that is not the case. Would lower income tax
23 enable the exporters to be a little more competitive,
24 to make a better bid or would he not, in fact, take
25 income tax into consideration whatsoever. Would he take
26 a view that income taxes are simply part of profit and
27 they have nothing to do with it and put in the same bid
28 whether he was paying income tax or not paying income
29 tax?

30 MR. HAMILTON: If I might answer very



1 briefly, we look on our export business on a net profit
2 basis in relation to the investment for sales. Any amount
3 which would increase that net profit, net income after
4 taxes would encourage us to seek further exports if the
5 profit was better than it has been. I don't think that
6 the reduction of taxes suggested here would change our
7 selling price largely. It would help. We could have
8 some freedom to manoeuvre in bargaining, but I think
9 I would agree again with Mr. Rothwell that the general
10 effect of better returns on your export business might
11 encourage us to see if we can't do a little better than
12 we have done before.

13 THE CHAIRMAN: When you say "we", you mean
14 C.I.L.?

15 MR. HAMILTON: I am speaking for the company
16 there, sir.

17 THE CHAIRMAN: I wonder if your views are
18 pretty general with regard to exporters?

19 MR. McAVITY: I can speak of two other
20 companies, at least in similar fields, sir.

21 THE CHAIRMAN: And they would support this?

22 COMMISSIONER PERRY: To my mind the
23 interesting point in the last two comments is that they
24 don't seem to be in the the brief. You are now making
25 a statement which is a quite valid one, you would be
26 interested in export trade because it would bring you
27 greater profit. As I read the paragraph on page five
28 you have two other things in mind: one, reduced taxes
29 enable you to shave prices and, two, that you would be
30 able to retain more earnings. It seems to me you have a



1 third reason.

2 MR. McAVITY: If I may speak to that?

3 COMMISSIONER PERRY: Please do.

4 MR. McAVITY: I think we are guilty of,
5 perhaps, not having time and staff to produce this in
6 full detail. Basically I think the intent of it in
7 drafting the final version of that paragraph 1C is this:
8 there are a number of companies who would be in a position
9 to shave prices. This applies particularly in the
10 manufacturing of fabricated goods rather than the
11 bulk commodities, extractive industries et cetera where
12 they had to meet world competitors regardless and
13 normally wouldn't cut below that to get the business.
14 There are a number of those. Basically through, the
15 investment incentive provided them means having slightly
16 greater return for tax retention on profits. We have
17 indicated here it would be available for expansion and
18 new ventures. There are a number of companies today
19 who have plans for expanding interests through Canada.
20 With the retention of one or two per cent after tax
21 increases profits, and whether they plow them back in or
22 give them to shareholders is another matter, but we
23 think here that it would enable them to expand in Canada
24 to a greater extent than they might be now.

25 In any case it would affect the investment
26 position.

27 COMMISSIONER PERRY: It is beginning to add
28 up because this is one of the chestnuts of any study of
29 corporation tax. There are two things you look for: one
30 is the affect of corporations' ability to invest, that



1 is the amount of cash left with it and the other one the
2 incentive to invest. Some people argue as to which one
3 or the other is more important. It would seem both are
4 quite important. You are saying that you give us profits
5 we will use them and be more useful for the country as
6 a whole.

7 MR. McAVITY: A great many of the large
8 consumptional manufacturing industries have been using
9 funds generated out of subsidiary earnings. They have
10 brought in relatively little capital in the larger ones.
11 The availability is there, money is available. There
12 is greater likelihood of expansion.

13 I would like to mention one specific case.
14 I am referring to the growing swing to international
15 corporations. I would like to mention two things.
16 I have been quite disturbed to learn of many of the
17 manufacturing companies who are trying to increase
18 export or to provide job opportunities who are building
19 non-resident subsidiaries. One I refer to said because
20 it happened to be the centre of the market they could
21 do it better in terms of profit retained after taxes.
22 Another one I saw had a company limit. They are
23 following the practice established by our neighbours
24 to the south. This company is now providing goods
25 in the consumer field. No matter where you are you
26 can ask for the product and get the same thing as you
27 can at home.

28 The second is an example, a company that
29 started in this country in 1960, a rather significant
30 date again because it happened to be at the end of a



1 certain phase ~~period~~, or near the end of it, December
2 of that year, production ~~incentives~~ were granted. Most
3 people didn't look upon them as any great encouragement
4 to spend. This company, however, was a fully-owned
5 subsidiary of a California operation and because of the
6 high margin allowed to them on plant, they have built
7 up now and done some \$40,000,000 business in Canada with
8 roughly half of it being export to a fully-owned subsid-
9 iary in Europe. Things are being made here instead of
10 south of the border on account of the very large marginal
11 advantages within this country.

12 COMMISSIONER PERRY: Let us take these
13 examples one by one. The first is Canadian concerns
14 are buying plants, subsidiaries outside of Canada, moving
15 shops across the border. Do you suggest that this is
16 because of taxation?

17 MR. McAVITY: It would be wrong to say
18 exclusively because of that. Certainly the tax aspect
19 is a key one in international corporations, profit,
20 and that is profit after taxes.

21 COMMISSIONER PERRY: Would you suggest taxes
22 should be designed so as to discourage that?

23 MR. McAVITY: Precisely. This is part of
24 the conclusion that the tax climate will encourage more
25 companies to produce here. I don't think corporation
26 taxes alone will have that much effect. It will not
27 solve the whole problem. Add to that the other measures
28 referred to later for consideration, sales tax on
29 capital goods and withdrawal tax and you have an increasing
30 burden causing, I would say, some reason to doubt the



1 security of the profitability of investment in Canada
2 in the long term.

3 COMMISSIONER PERRY: Dealing with your
4 example one, the only thing which could, so far as the
5 tax law is concerned that would stop such movements
6 outside the country would be lower taxes to Canada
7 than prevail wherever they are going. You have nothing
8 else to suggest?

9 MR. McAVITY: No. This is precisely it.
10 These people are having no trouble finding material.
11 In most cases they have great success.

12 COMMISSIONER PERRY: They are not saving
13 taxes by moving out of Canada because even if taxes are
14 lower in the country to which they go they will still
15 end up paying higher in that country's tax or Canadian
16 tax.

17 MR. McAVITY: I could give you one interesting
18 reason presently in two different instances. Included
19 among the non-tariff barriers there is one company --
20 this "buy Canadian" programme here -- this is in other
21 countries. One large manufacturer has encountered this
22 in certain states in the United States and in England.
23 He had a top quality product, top engineering design,
24 everything was good. The first time it was presented
25 in exactly the same circumstances he got the following
26 replies both from an American State, a utility and
27 likewise in England: This is fine, this is a very good
28 idea and we think we will buy it, but we can't buy it
29 from you because you are not one of our customers. We
30 must buy it at home. This is a very serious problem in



1 non-tariff areas which are being encountered every day.
2 There are many reasons for establishing foreign plants.
3 Tax would be one of them. Certainly in the case of the
4 California company I mentioned that have moved to this
5 side of the border. - they now have seventeen hundred and
6 eighty employees because of the fact they can make a
7 slightly higher margin of profit for the overall company,
8 shareholders of the parent company because it is a wholly-
9 owned subsidiary, of course.

10 COMMISSIONER PERRY: The tax would be less
11 in Canada than the United States.

12 MR. McAVITY: Precisely, because of the
13 production incentives provided in the budget of 1960 and
14 the write of privileges.

15 COMMISSIONER PERRY: By the time you withdrew
16 the profit to the States the taxes would be at least as
17 high as would have been paid in a U.S. prior.

18 MR. McAVITY: They are plowing it back here
19 and doing a very good job. There are other factors such
20 as ~~dividend~~ sharing and getting business in Canada.

21 COMMISSIONER WALLS: Am I right in interpret-
22 ing that your suggestion for the lowering of ten points
23 on corporation income tax and your other suggestion are
24 rather feelings by your organization that you favour
25 a tax concession that will help the whole economy rather
26 than specific concessions with respect to export alone?
27
28
29
30



R/RPS

1 MR. McAVITY: I would say yes, we have
2 that fact in mind sir. Earlier on we made the statement
3 to the effect that exports have, throughout the past
4 years, boomed abroad when the economy has been successful
5 at home, and obviously it has to be successful abroad. This
6 has been mentioned in one of the Trade Committee papers
7 recently. I had a long chat with the Trade Committee,
8 the authors of that report and we feel both aspects are
9 there. In this particular context we are specifically
10 referring, I would say more to the ability of some to
11 shave prices as set and for the decision-makers having
12 some incentive to invest more in Canada so it will become
13 a more attractive place in which to produce goods because
14 of the freedom of retention of profit.

15 COMMISSIONER WALLS: I did not note in
16 your brief where you had recommended that you wanted
17 tax concessions to help exports?

18 MR. McAVITY: No sir.

19 COMMISSIONER WALLS: If you are going to do
20 that, as is done in about eight other countries at the
21 present time, would you not be up against the same
22 position that we are up against in regard to imports
23 in that you would almost have to create different
24 concessions for different industries just the same as
25 you create different tariffs for different industries?

26 In other words, an overall concession for
27 export might encourage us to export products that we
28 perhaps should not export. Whereas, if you are going
29 to make any concession for exports, you almost have to
30 be specific and vary from one product to another. Do you



1 agree with that?

2 MR. McAVITY: I do sir but if I understand
3 correctly, the reason -- I can state the reason we have
4 not specifically asked for specific incentives to do
5 that, the reasons in support of the case are two in
6 number. One is that there is a very wide difference,
7 as stated earlier, in the percentage output that is
8 exported by, we will say, the primary extractive industry
9 through exporting one hundred per cent and who has great
10 relief from tax burden generally as against the small
11 manufacturer who has one or two per cent being exported.

12 The second basic reason is that a great
13 many of the remissions that are granted by other countries
14 are in areas which are not included in our tax structure.
15 Turnover tax in France, the Australian payroll tax, and
16 so on. Nobody, I think, seriously wants to get into such
17 things as turnover tax and payroll tax. We have, we think,
18 quite a sufficient spread now.

19 It would be very difficult to establish and
20 to administer a system of allocating or pro-rating export
21 to domestic sales and earnings. In many companies, includ-
22 ing one with which I have been associated for many years
23 where exports total between 50 and 60 per cent of the
24 average of our total output in Canada, we have not
25 specifically asked. We have been in very close touch
26 with Government tax officials on this and intend to keep
27 in close touch from now on to make sure or to see if we
28 can work out something about remaining or keeping our
29 competitive position.

30 I have made the statement, and I don't know



1 if you would mind a bit of levity here, that our exporters,
2 particuarly in the manufacturing and fabricating sector who
3 have had a very difficult time competingare rather to
4 be compared with the football team who has a coach that
5 is constantly keeping them on side and playing against
6 teams repeatedly who are off-side, then a benevolent
7 referee, known as GATT, who keeps his whistle in his
8 pocket. Germany retained this incentive just as long
9 as German industry needed it.

10 COMMISSIONER WALLS: I believe Japan in
11 1964 is following exactly the same procedure.

12 MR. McAVITY: There just seems some doubt
13 as to whether Japan is going to follow or not. The last
14 I read in the Journal of Commerce from New York they
15 are hoping they will -- they are hoping Japan will join
16 the great many countries, large and small, who have
17 industries that are competing with our industries. Most
18 of these may be markets which have certain rights
19 which must be considered as giving them some advantage
20 in write-offs, in tax remissions of one form and another.
21 We have not specifically recommended it. We have outlined
22 here a case of close study to be kept, and we intend to
23 maintain that close contact and sit with Government
24 officials.

25 COMMISSIONER BEAUVAIS: My worry is if there
26 is any deduction made inthe income tax rate, it would
27 be taken up by the Provinces because in the past that
28 has happened mostly in all cases.

29 THE CHAIR MAN: You say that is also your
30 concern?



1 MR. McAVITY: We specifically put that in sir.
2 We would deprecate it. I don't know what else we can
3 do but deprecate it. We haven't been doing this for years.
4 There is a strong case to be made on the serious lack
5 of our competitive policy and of the impact of taxation.
6 There is still a great deal of work to be done in this
7 area and I would say the same thing applies to the labour
8 content which is, in some industries, quite high.

9 There seems to be a serious co-operative
10 effort to make our industry competitive. It is remarkable
11 to me that our Government at the Provincial level as
12 well as the Federal are spending a tremendous amount
13 of money to promote the export of manufactured and
14 fabricated goods. Looking at our number one problem
15 which, I think, is still conceded to be unemployment
16 in the generation ahead and while at the same time the
17 tax impact is very deterring, in effect there is a
18 deterrent there to invest, a lot of them, as I am sure
19 Mr. Hughes could state, --- even a complete abolition
20 of the corporate income tax would still not make them
21 competitive because of our other high cost disability,
22 low volume production, no specialization and because of,
23 as Mr. Rothwell has stated, the geographic problem, the
24 high inland freight they have to pay.

25 THE CHAIRMAN: Is this concern as to low
26 volume still valid?

27 MR. McAVITY: I can think of an industry
28 where it may well be.

29 THE CHAIRMAN: I would have thought the
30 argument must be running out in a great many industries



1 where, with eighteen and a half million people we have
2 ceased to be a small country and surely we must be
3 getting economic production in many instances which is
4 competitive throughout the world.

5 MR. McAVITY: I think the optimum volume or
6 level sir is still very far from being reached. A great
7 many of our consumer durables and other goods do have a
8 high added value or labour content -- we have, it has
9 been said, too many in some fields. There are certain
10 areas, such as white goods, refrigerators, stoves, we
11 have actually, I am told, as many manufacturers in this
12 country as they have in the United States of America.
13 These are problems. Many of them are Canadian-owned,
14 others are subsidiaries. There is no solution that I
15 can see for that as yet. The programme is being under-
16 taken now by the Government in connection with automobiles.
17 There may well be some similar ingenious legislative
18 device they will come up with but they still have a long
19 way to go.

20 I would like some of the other people to
21 speak up.

22 MR. HAMILTON: Without referring to my own
23 company, but chemicals generally, there is one area where
24 a plant is now being built in Canada to serve the
25 Canadian market. I think the annual volume is one
26 hundred million pounds. At the same time plants are
27 going up in the United States and in Europe where the
28 volume is four hundred million pounds to serve that
29 larger market.

30 THE CHAIRMAN: What is the optimum?



1 MR. HAMILTON: It is not less than four
2 hundred billion because the four hundred million plant
3 was especially selected in relation to the size of the
4 market as being the most economic. The other two plants
5 I know of have an annual production of sixty to sixty-five
6 million tons in this case, and the new plant has been
7 announced for England of two hundred and fifty thousand
8 tons. Again about a four to one ratio. I am not
9 qualified to say what the economic unit is but the larger
10 the market, apparently the larger the unit it can
11 sustain. Those are examples that you run into in the
12 chemical industry.

13 THE CHAIRMAN: It doesn't always follow that
14 efficiency is related to size.

15 MR. HAMILTON: Not directly, no.

16 THE CHAIRMAN: It might be to a certain point,
17 and then you slough off beyond that point.

18 MR. HAMILTON: In this one case, the four
19 hundred million-pound plant I mentioned, they had the
20 option of building one large unit or building two or three
21 small units scattered in their market area. The market
22 area is small so there was not much advantage in splitting
23 up as there might be in Canada coast to coast so they
24 decided to go ahead with the one large plant and presumably
25 that was the proper course.

26 COMMISSIONER GRANT: Mr. Hamilton the
27 decision to establish a plant in a foreign country,
28 among the factors which would have to be taken into
29 consideration, which would weigh very heavily in making
30 that decision I suppose, would be the availability of the



1 raw material which might be required?

2 MR. HAMILTON: Yes, I would say so sir and
3 yet, on the other hand, I know of plants that have been
4 built in foreign countries where 90 per cent of the raw
5 materials have had to be taken to that country and manufact-
6 ured there.

7 The reasons for the establishment of the
8 plant being trade conditions; very restrictive quota
9 on imports of this particular product. In fact, almost
10 a complete embargo and the Canadian company in that
11 case had to decide to either give up that market, which
12 it had served for many years, or make a decision to
13 invest within the country and avoid this embargo even
14 though the raw materials required for that operation,
15 most of them, have to be taken to the country.

16 In putting the embargo on, this particular
17 country was trying to encourage local manufacturers and
18 it gave incentives by way of elimination of duty, fast
19 write-offs on equipment taken into the country and again
20 these sort of factors perhaps outweighed the additional
21 cost of taking raw materials there.

22 COMMISSIONER GRANT: Now Mr. McAvity I
23 have been wondering in my mind as to whether or not you
24 would care to tell the Commission, or give the Commission
25 your views on what the individual manufacturer himself
26 is doing, apart from your Association, if this is within
27 your knowledge, to sell his products abroad?

28 Now I preface that statement or that question
29 by the observation which has been made, I think in fairly
30 responsible quarters, that the Canadian manufacturer



1 is more concerned, much more concerned with his domestic
2 market than he is in getting out and establishing a
3 foreign market for his goods.

4 In answering it would you take into consider-
5 ation the fact that there is a tendency today to have
6 plants working around the clock, or at least on the
7 seven-day week. I believe the paper industry has
8 recognized that that is a feasible thing and that instead
9 of having this amount of capital tied up and being
10 idle for one day of the week, that it should be worked
11 seven days a week and if the application of that type
12 of thinking were applied to manufacturing generally
13 in Canada is there a chance that the cost for export
14 trade, if markets could be developed, could be lower
15 and the industry generally could expand its markets
16 by its own efforts without any need for material tax
17 consideration?

18 MR. McAVITY: I would like to answer the
19 second question first sir in this way: that there are
20 a great many in the extractive field, primary industry
21 field who have got increasingly competitive, in terms
22 of the price situation facing them. This I know to be
23 a fact and I am sure that Mr. Rothwell and Mr. Hamilton,
24 the fabricating side and the processing side could speak
25 in the same way.

26 I give full marks to Canadian management.
27 I am not one of those who think their efforts are inefficient
28 or lethargic, or anything else. I have worked with a
29 lot of them in various businesses in my time. I know
30 some, due to foreign ownership who have the experts and



1 drive, and others just because they realize they have
2 to keep up.

3 Working around the clock aspect, I cannot
4 speak too much about except to say that a lot of them
5 find that the lowest possible cost must be achieved
6 in order to meet world prices that are going, and still
7 show a reasonable return on the investment.

8 In response to the first question having
9 to do with what the Canadian manufacturers are now doing
10 in relation to selling his product abroad, I would say
11 this sir: I obtained from the Dominion Bureau of
12 Statistics some figures which appeared in the Financial
13 Post, if I may be excused from mentioning that particular
14 publication. They made a feature story of it two
15 weeks ago come Thursday. This was from sources provided
16 by the Commodities Branch of the Department of Trade
17 and Commerce and in effect it showed this: that over
18 a period of many years after the Korean War sort of
19 a level of approximately five hundred million dollars
20 of end products being exported but in the past two and
21 a half years this has grown to over nine hundred million
22 dollars as of 1962 and in the first half of 1963 in many
23 of the different commodities section, equipment of
24 various types, even down to silk stocking, vaccines,
25 all kinds of you might say manufactured products have
26 jumped so that in the first six months of this year they
27 are actually in excess now of the full year 1961, the
28 calendar year.

29 I give full marks and full credit to the
30 Department of Trade and Commerce for the excellent



1 promotion work done by them and in certain Provinces
2 they got people moving. At Government expense they have
3 had trade missions and they have done a very effective
4 job.

5 I can name one example of a company that
6 never could have thought it would have sold in England.
7 It produces gum foil papers and when he asked to be
8 included in the trade mission he was told no, you wouldn't
9 do much size. We want to take people that go into
10 heavy business. He said if I don't bring back an
11 order on my first trip, I will pay my transportation
12 costs myself. On that basis he was included in the
13 trade mission and he came back with two orders over
14 \$350,000 and he has been back since doing repeat
15 business. His particular product suits the British
16 manufacturer of Christmas crackers quite well. He
17 couldn't get it at home. Wasn't even worried about the
18 price. These are examples, and I could mention a good
19 many of them.

20 Rather significant also is the fact of the
21 stabilization of the dollar. Some manufacturers say
22 that due to the realistic stabilization of the dollar,
23 it perhaps contributed more. They go so far as to say
24 that the seven and a half per cent discount, shall we
25 say, put them in a competitive position which they
26 would not have been able to achieve; probably the
27 Government would not have had as much success
28 without this. They are doing a great thing.

29 I would say that the factors that have had
30 more effect than anything, the one per cent retention or



1 ten point cut in the profit, in the corporate tax rate,
2 far more important has been the dollar stabilization
3 at this low rate and the promotion work that has been
4 done. The exhortation has been very successful.

5 COMMISSIONER GRANT: Then there are the two
6 large elements of the industry that you represent. There
7 is the primary producer, the secondary manufacturers. It
8 is in the latter field that you have seen encouraging
9 results within the last two or two and a half years,
10 more so than in the former years?

11 MR. McAVITY: Yes sir. One other factor
12 I have not mentioned that has been a great contribution
13 is in respect to the liberalization of our programme
14 of export credit insuring and financing. Section 21(a)
15 has had a lot of people, particularly in the capital
16 goods field, involved in export orders; we have the
17 aid programme, the Colombo Plan and others which are
18 placing more goods on the foreign fields which we did
19 not have fifteen years ago.

20 This has been the argument in recent years
21 that the liberalization of Section 21(a) has had a very
22 real effect. Our Association has met, I would say
23 quite regularly on the subject of further liberalization,
24 to see what we can do in this field.

25 COMMISSIONER GRANT: I hope the question I
26 am about to put to you is not an unfair one but it is
27 this: Does your organization see that the influence
28 of the foreign ownership over Canadian subsidiaries
29 has had a marked effect on the export of Canadian
30 products?



1 MR. McAVITY: I welcome the question sir.
2 The intention expressed by the Minister in his recent
3 budget are, I would say welcome and you might say they
4 found agreement or approval even with the subsidiary
5 companies that I have talked to but they feel, so far
6 as influencing their export policy, and this has nothing
7 to do with withholding tax and depreciation allowance,
8 it will not have any effect.

9 The primary producing plant, or the pulpwood
10 selling now one hundred per cent to the export market
11 cannot be influenced by this and yet they have the
12 full burden of the increase of withholding tax to pay,
13 even though they do not meet the 25 per cent criterion.

14 So far as manufacturing people are concerned
15 I would add only this, that there are a great many and
16 I mean a great many plants here in Canada who would not
17 have -- I am repeating myself -- the export sales they
18 have got to get were it not for foreign ownership,
19 sales to foreign companies, affiliated companies or
20 sales through worldwide organizations. If they were
21 strictly Canadian-owned they would have to go very far
22 to find those markets and have a very difficult time
23 so that the foreign control aspects, so far as exports
24 are concerned, I would say generally speaking would be,
25 expressing the composite view of those to whom I have
26 talked which are only a few, but it is a fair percentage
27 of the larger ones, would be that there is nothing
28 wrong with the export policy today.
29
30



PB/RPS 1

I have been in very close touch with the
Department of Trade and Commerce, Commodity Branch,
who have been doing a job more and more important to
Canada. There have been two new ones I have here, quite
considerable expansion, several million dollars, primarily
designed to export from Canadian subsidiaries and
don't intend to change the situation.

COMMISSIONER GRANT: Is there any evidence
in which the export of a product manufactured by a
Canadian subsidiary of a United States company has
been influenced by that on the grounds of different
political ideological thinking on the matter? In your
experience that isn't much of a factor?

MR. McAVITY: I would say it is a very serious
factor in a great many cases. Many many companies out
of thousands of subsidiary companies -- there are many
who have no permission to export excepting in the 49th
Parallel. I would say increasingly they are getting
complete autonomy. I am happy to note in the list
some 78 or 80 which I have come across over a period of
time, in the past six months who are shipping to the
United States manufactured goods in competition with
their own plants down there. Geography again plays
a part. There is one manufacturer in Montreal who is
selling to New England in competition with the plant
located in the Western States. This increases, I think
by constantly working at it. We will succeed in the long
run. Tariff barriers in many cases make it pretty
prohibitive. In addition to company policy makes it more
difficult, and the same thing as I mentioned earlier.



1 THE CHAIRMAN: Our taxes should be low
2 enough to make us competitive.

3 MR. McAVITY: Exactly, investment decision
4 will favour a Canadian plant.

5 COMMISSIONER GRANT: I should like to think
6 where transportation cost on the manufactured
7 article for overseas market is a material factor that that
8 might lead to the establishment of manufacturing plants
9 on the seaboard.

10 MR. McAVITY: I would suggest with all
11 industries it has been looked at more and more where they
12 are transporting bulk materials. The railway companies
13 are today members of our Association and we have had
14 discussions on the cost of inland freight and the cost
15 aspects with competitive ability is very serious.

16 MR. LINDSAY: You might be interested in
17 the experience of a secondary manufacturer in the midst
18 of the number of primary producers here. I think lack
19 of specialization is one of the greatest problems that
20 confronts the secondary manufacturer today in the
21 export market. In our particular industry, electrical
22 wire and cable industry in Canada we have roughly ten
23 companies whose total production is less than any one
24 of the four largest companies in the United States.
25 This, of course, gets the American producer to specialize
26 on a product line which is not possible in Canada. Take
27 an item like lamp cord with which you are all familiar,
28 a American manufacturer can set up a plant to produce
29 that five days a week, three shifts, and as a result make
30 maximum efficiency possible. A Canadian producer will



1 probably have to fit that in with his multitudinous
2 other requirements. This is a big factor facing the
3 secondary manufacturer.

4 Now, as you get closely to raw material,
5 for example semi-fabricated products which are in demand
6 in the export field, there is a much greater possibility
7 of export. Here we are able to compete and compete
8 quite effectively. In our own case we compete with
9 our two parents, one in the U.K. and one in the U.S.
10 and we are constantly twisting their tails in this
11 particular field and we do this with complete freedom.

12 THE CHAIRMAN: Mr. Lindsay, this is something
13 I had heard before. I never fully understood it. You
14 say there are 10 plants?

15 MR. LINDSAY: Ten companies.

16 THE CHAIRMAN: Ten companies in Canada
17 manufacturing wire and cable. I assume from that that
18 all ten make all the same things and compete with each
19 other?

20 MR. LINDSAY: That is true.

21 THE CHAIRMAN: Why don't the natural forces
22 of economics cause the number of people in one line
23 to be reduced to two or three maintaining a competitive
24 market, but by centralization reducing costs. Why should
25 all ten of them all make everything? It just seems to
26 me that you are defying the natural laws of economy
27 in doing this.

28 MR. LINDSAY: We would like to know the
29 answer to this.

30 THE CHAIRMAN: I have never understood that



1 and it seems to me there must be reasonable answers to
2 this. I would think you would naturally switch to the
3 things you are better in and move out of things you are
4 not and gradually come to a situation where as I say
5 two or three would be making each line instead of ten?

6 MR. LINDSAY: I think geography
7 as Mr. Rothwell said and transportation come into this
8 situation.

9 THE CHAIRMAN: I suppose that is it.

10 MR. LINDSAY: And another factor is economic
11 provincialism which has become an important part.

12 THE CHAIRMAN: That is significant. I agree
13 about that.

14 MR. LINDSAY: In order to do business in
15 any province in Canada you need to have a plant there
16 so you multiply the number of companies by the number
17 of Provinces -- this is again all adding to our export
18 problem.

19 THE CHAIRMAN: Anything further on this?
20 I would like to go to page 5(e) unless anybody has
21 anything before that. In that paragraph you indicate
22 that your members favour a straight corporation cut
23 tax, and I would assume that I might put it to you under
24 this heading: If all the tax concessions that have been
25 made to the manufacturers aggregate three percentage
26 point of corporation tax -- I don't know what they do
27 aggregate -- I haven't added them up. I don't know if
28 the information is available but I suppose it might be.
29 Would it be better to cut out all these and reduce
30 corporation tax by three per cent? Is that would you are



1 saying to us?

2 MR. McAVITY: In fact, sir, yes.

3 In discussion with several dozen members by correspondence
4 and by personal visit I found as I state later on in this
5 brief that the special tax incentives are not preferred
6 for a number of reasons which we spell out.

7 THE CHAIRMAN: Right.

8 MR. McAVITY: So, as far as incentives or
9 depreciation allowance which would help exporters -- there
10 would be a great deal of inequity because some would
11 benefit far more than others.

12 THE CHAIRMAN: I was going to depreciation
13 as the next question.

14 MR. McAVITY: So far as a straight cut in
15 corporation tax, it is basically because of this reason.
16 Following discussions with a number of members I sat
17 down with some people in the Department responsible
18 for budget-thinking and budget-making and it was put
19 this way to me as a question: if we could show industry
20 this could help with the taxation on capital production
21 in the investment production field and we could produce
22 \$3,000,000, how do you think the cross-section membership
23 would react. The answer to which was in favour of
24 corporate tax cut.

25 THE CHAIRMAN: Well, that must be clarified
26 in accordance with Paragraph E:

27 "While we want a system of capital

28 "cost allowance that is comparable to that

29 "in other industrial nations" ---

30 One I can think of right away is the U.K. where machinery



1 and equipment is written off at 130 per cent of cost.
2 Total write off in the first year is roughly 50 per cent
3 of the cost. That brings me to what is the proper charge
4 in order to measure income. It is incentive provision
5 of some kind. You may therefore think in Canada we should
6 pickout whatever is most liberal in any country -- the
7 one I stated is the most liberal. We could therefore
8 base our depreciation system on that.

9 MR. McAVITY: This basically sir has to do
10 with investment decision -- having new equipment -- this
11 has been said to me often, that we already have excess
12 capacity in many industries. There are all kinds of
13 new products sold for which the old equipment wouldn't
14 provide. Here basically what we have in mind -- in
15 my conversations, speaking to those in both the United
16 States and the U.K. and various others stated, cash flow
17 is important to make investment in international companies
18 so therefore we want to be competitive.

19 THE CHAIRMAN: If one was to seek neutrality
20 between our labour intensive and capital intensive
21 industries, scrap special incentives with regard to
22 capital in favour of tax cuts. One would therefore --
23 I would think capital cost allowance is what one normally
24 takes in order to measure income, what is a fair measure
25 of income -- anything beyond that seems to be incentive
26 in favour of capital and it may be a good thing to favour
27 capital, I don't know.

28 MR. McAVITY: Yes.

29 THE CHAIRMAN: What I would think, if we
30 want tax cuts instead of incentives surely we can face up



1 to scrapping incentives and not say we want a tax cut
2 and we want these capital incentives. Surely the two
3 are not consistent.

4 MR. McAVITY: I think you are right. I think
5 it is wording on my part, I tried to interpret something.
6 I should be more clear. I think the intent on the part
7 of a great many people, particularly in the international
8 field -- a company with non-resident subsidiaries in
9 other countries, this was made very clear to me, this
10 write-off, cash flow is important in some cases.
11 If we have the tax rate stabilized at a lower level we
12 can look to a greater return on profit after taxes.

13 THE CHAIRMAN: I am getting from this para-
14 graph in the general way your membership prefers tax
15 cuts to incentives and when I say incentives I mean
16 incentives by way of asset depreciation or investment
17 allowance or anything of that kind.

18 MR. McAVITY: If I have inferred they wouldn't
19 take any incentives that are going I think I have perhaps
20 missed the membership's opinion.

21 THE CHAIRMAN: There was no such inference.

22 COMMISSIONER GRANT: Before leaving the
23 question of tax on page 4, coming back to page 4 where
24 you recommend a total corporation income tax reduction
25 of ten per cent and preferably ten points to 40 per
26 cent rate, are you in favour of continuing of the
27 differential which is now given to the so-called small
28 business?

29 MR. McAVITY: To be quite frank we haven't
30 even discussed it. There are not very many small businesses



1 exporting, to our knowledge, and we haven't got them.

2 THE CHAIRMAN: From your confreres I see
3 you have size here.

4 MR. McAVITY: Unless the others have more
5 to say, I don't think that class of company is a major
6 factor in the export field.

7 COMMISSIONER WALLS: Moving on to page 6
8 in regard to 2B you suggest we make up the revenue loss
9 resulting from the reduction of corporate taxes by
10 increasing the use of indirect taxes. However, in your
11 brief you say that you want exemptions, you want taxes
12 taken off building materials. You want sales tax taken
13 off machinery and tool production and in still another
14 part of your brief you say if there is to be taxation
15 of services you don't want to see sales tax on such
16 services as transportation. Where do you see that
17 we can get this extra revenue by indirect taxes when
18 you are suggesting so many of them be removed?

19 MR. McAVITY: In this area, sir, I can
20 truthfully state there is a great deal of difference of
21 opinion which is why we have requested this be considered --
22 this matter is a sufficiently important matter as to
23 warrant a special study in the instructions in the
24 memorandum to participants. There are a good many,
25 particularly in the manufacturing sectors who are
26 basically dependent upon the domestic market. These
27 quite rightly feel that the consumption taxes are already
28 high. I would say that there has been a feeling expressed
29 by most of the, shall we say larger companies who are
30 major exporters today, the fact that the taxes on capital



1 in this country as indicated in this pamphlet are now
2 the highest of any industrial nations and trade partners
3 with whom we are dealing and competing -- 17.1 per cent
4 of our direct taxes, to all levels of Government as
5 against consumption -- 17.1 per cent taxes on capital
6 as compared with income and consumption. We have added
7 to this since this was written by adding sales tax on
8 capital investments for production purposes.

9 COMMISSIONER WALLS: The only reason that I
10 bring this before you is we are getting this repeatedly
11 that people say we should use more consumption tax,
12 and then inevitably follow it up by asking certain
13 consumption tax should be exempt. We would like to
14 receive from someone a suggestion of where we should
15 tack it on.

16 MR. McAVITY: This is I think a major problem.
17 The cost of living has been rising -- I am not the one
18 to speak on this subject. I am not an economist.
19 I would say the objective of our Association is we must
20 take a stand on matters that will be a deterrent to
21 exports. The sales tax on capital goods is one and
22 on this particular item we feel that there is too high
23 a tax now on capital goods that are required to produce
24 goods for exports.

25 Some members have expressed fears for
26 serious residual implications. I point out living
27 costs are already too high. On the other hand I have
28 been reminded the ability of industry to provide increasing
29 employment is directly related to the ability to implement
30 plant expansion and new features.



1 COMMISSIONER WALLS: Following up that line
2 and jumping ahead in the brief, this follows the remarks
3 you have just made on the question I put: do you know
4 of any of your member organizations on which the sales
5 tax on building materials was a deciding factor as to
6 whether they would build a new plant or not? Was it
7 even taken into consideration in deciding on building
8 a plant, the factor of sales tax on building materials?

9 MR. McAVITY: I can't give a truthful
10 answer to that. I have heard comments as we all have,
11 some public, some private ~~on~~ the affect ~~of~~ the additional
12 cost involved. We have some material to present later
13 on. One large manufacturer has already said when the
14 sales tax becomes eleven per cent in 1965 it will have
15 the affect of increasing the average of their net
16 production price costs and eventually will be one per cent.

17 COMMISSIONER WALLS: Would that be based
18 on the tax on machinery and tools of production?

19 MR. McAVITY: All of it.

20 COMMISSIONER WALLS: Rather than on the
21 decision on building a plant?

22 MR. McAVITY: I am afraid I am not in
23 a position to give a truthful answer to your question
24 because we haven't had the opportunity to discuss it
25 with sufficient people.

26 MR. ROTHWELL: The decision to build a plant
27 will come about through a review of the entire project
28 and all of the factors in the case, of which sales tax
29 on building and production equipment would be one.

30 Now, it certainly is quite possible that
sales tax on production equipment might be considered.



MR/RPS

1 MR. ROTHWELL: But this sales tax is one
2 factor of many that go into our decision as to whether or
3 not to go ahead with the project. It is another cost
4 to be observed. It might be the thing that would make
5 a particular project marginal or sub-marginal and thereby
6 eliminate the project. Like you, I have not heard of
7 any particular instance that I can specifically say it
8 was the one thing that prevented the establishment of
9 a plant but this is another added cost to be taken into
10 account when looking at a venture.

11 THE CHAIRMAN: Thank you. We are all concerned
12 about where we secure or maintain revenue needed for
13 Government. You point out that the share of the
14 Gross National Product which is scooped off by various
15 Governments in this country is not as high as it is
16 in many other countries and yet we hear constantly that
17 corporation taxes, our indirect taxes are certainly
18 far higher. When you put together the Federal -- Prov-
19 incial ones, and you have just told us that our capital
20 taxes are higher than virtually any nation, what I cannot
21 quite see if we are the highest in every particular
22 category why, when we add it altogether, are we not
23 higher? In fact, we are pretty far down the line so,
24 as I say, I think this indicates we have been pretty
25 generous with regard to our exclusion from taxes and
26 our various incentives. We hear if we impose a tax it
27 may actually stop a project. I suppose any tax has
28 a dampening effect. What we have got to choose are those
29 which have the least dampening effect. We cannot,
30 obviously, avoid bad effects or we won't have any taxes



1 at all.

2 MR. McAVITY: A plan that is on the drawing
3 boards and in the hands of the Board of Directors, an
4 international plan here, England, Europe and the States
5 that is an \$11,000,000 project for southwestern Ontario
6 has not yet been approved. Now the impact of the sales
7 tax alone was not responsible for this. The withholding
8 tax had a bearing. All I know it is still under
9 consideration and has not yet gone ahead. It should have
10 started this spring, this summer. It was up for discussion
11 in the month of June.

12 This area generally sir is one which we
13 do intend to keep in touch with in the continuing
14 discussions we are having. If we do get anything on it
15 later, we can get in touch with the Commission Secretary.

16 THE CHAIRMAN: Paragraph E, page 7, you
17 indicate that some of your members have expressed fears
18 that a sudden increase in consumption taxes would have
19 serious recessionary implications. I wonder whether you
20 would consider that such an increase might have
21 inflationary implications?

22 If our living costs are already high, any
23 further increase in indirect taxes, I suppose, could
24 push up living costs where wages would be inadequate to
25 meet them and could start inflation and if that were the
26 case, the gain to exporters by shifting from direct to
27 indirect, and eliminating indirect to exporters, would be
28 completely lost, I suppose, with more serious cost to the
29 economy than the benefit derived from those increased exports?

30 MR. McAVITY: It would sir. I have at least



1 half a dozen letters from people who agreed with the
2 brief in its entirety expect for this one factor which
3 is why the final draft was changed. They were people
4 whowere manufacturers mostly of consumer goods afraid
5 ofthe increase in cost to the consumer and in this way
6 having an effect on their output.

7 THE CHAIRMAN: Did anybody say this would
8 be inflation?

9 MR. McAVITY: I did not hear it sir;

10 COMMISSIONER PERRY: It would be mathematically
11 true that there would be an increase in cost and
12 prices unless your price came down by the level of the
13 corporation tax reduction.

14 MR. McAVITY: That is right.

15 THE CHAIRMAN: And that increase could
16 drive all the benefits you could get, I would think from
17 the corporation tax reduction?

18 MR. McAVITY: I think you are right sir.

19 COMMISSIONER WALLS: At the top of page 8
20 you state:

21 "Many of the major trading nations
22 "appear to be giving a competitive advantage
23 "to their industries by deriving a much
24 "higher percentage of revenue from taxation
25 "of persons than of corporations . . . "

26 Do you really think that any lesson can be
27 taken from that, because there is a wide variance between
28 nations? True in a number of European nations what you
29 state is quite correct but is it not a fact that the
30 largest trading nations -- Japan is the reverse of that,



1 that their corporation taxes applies 41 per cent to
2 revenue and their personal income taxes 59 per cent so
3 do you really think that you can take any lesson as to
4 the relative advantage of placing taxes on corporation
5 as against persons?

6 MR. McAVITY: To answer that I would say that
7 it is not by accident that we have said "appear to be
8 giving a competitive advantage." Our sources are not
9 as great as yours, certainly, but the sources we have
10 tapped on this, the pamphlets that have been written, the
11 figures all indicate that the variation in the taxing
12 principle -- tax bases differ. The system of actual
13 bookkeeping is different. Another difference has been
14 brought to my attention of one of your Scandinavian
15 countries where the total corporate tax rate is 48 per
16 cent. They have no contribution to charities, to
17 universities, hospitals, to anything else. All kinds
18 of factors come in. I say here "appear to be". One
19 of the reasons why is our thinking is sufficiently
20 complex and we really have had insufficient study. We
21 are not in a position to give it sufficient study but
22 we will do our best to keep working at it.

23 THE CHAIRMAN: I wonder if those countries
24 which tax their corporations the lowest are found by your
25 Association to be the most competitive in exports because
26 the pattern varies considerably? In Europe I think the
27 range is from something in the 30's up to somewhere over
28 50 isn't it?

29 MR. McAVITY: To become export oriented or
30 export conscious sir I think requires a great deal more than



1 tax structure. I think the Japanese and the Dutch, and
2 a few others have indicated that, with their knowledge
3 of languages, and so on. This is one area that we are
4 getting into, the educational field.

5 COMMISSIONER PERRY: I am still not quite
6 clear as to whether you want special incentives or not.
7 I keep coming back to that.

8 MR. McAVITY: I think I could answer that
9 probably in a truthful way by stating if there are any
10 incentives cooked up, we will be glad to consider them.
11 I don't think you would find agreement between say the
12 large primary producer exporting one hundred per cent
13 and the small manufacturer exporting perhaps one per
14 cent on a controlled basis. Wide difference of opinion
15 but certainly as indicated in our submission here, we
16 suggest that -- we have already started this with the
17 authorities in Ottawa, having better ways and means and
18 keeping in close communication, I found that our tax
19 authorities in the Federal Government particularly are
20 very sophisticated in this field; know exactly what is
21 going on. They do not always feel or see any reason
22 why they should have to consult industry as a whole but
23 we are going to try to fill that gap if we can and
24 keep working at it.

25 MR. ROTHWELL: May I comment on that? I think,
26 Mr. Perry, that the definition of incentives has been
27 broadened in our eyes this morning. The Chairman has
28 put capital cost allowances, and so on, into the incentive
29 field. I think what most of us have done is look at
30 incentives as perhaps some of the gimmick items.



1 COMMISSIONER PERRY: I think you put it
2 there yourself by your paragraph on page nine which includes
3 the liberal capital cost allowances in France, Sweden
4 and the Netherlands and those recently liberalized in
5 the United States and United Kingdom.

6 MR. McAVITY: Yes, it is.

7 COMMISSIONER PERRY: I was just using your
8 own concept.

9 MR. McAVITY: Yes, it is there.

10 COMMISSIONER PERRY: I take it that your
11 policy is you don't have your hands behind your back.
12 At any rate you are not begging.

13 MR. McAVITY: I would go further and say that
14 the kind of incentives we are talking about may well
15 run into some sort of subsidy, if we really want to
16 get them exporting. Maybe transportation, some of these
17 things which happen in the agricultural field. If we
18 are really serious about providing jobs that are going
19 to be required for this post-war baby crop, we may have
20 to look to this sector to provide those jobs and maybe
21 something really big required that perhaps would go beyond
22 the bounds of normal tax remission of capital cost
23 allowance gimmicks or incentives. This seems to be
24 something we have to face up to soon.

25 What I was trying to infer, and perhaps
26 this is a subject we do not want to get too deeply into,
27 the seven and a half per cent had a rather marked effect
28 on our ability to compete as did Great Britain a few
29 years after the war where they suddenly had a 30 per cent
30 slash, put their exports in a better position overnight.



1 The tax factor, admittedly, is a relatively small cost
2 item on the cost sheet.

3 THE CHAIRMAN: Using my definition of
4 incentives, and your own on page 9 -- I think they are
5 about the same -- do you have any concern that the
6 country does not secure benefit in proportion to what
7 is conceded by way of tax rebates or reductions? It may
8 be that liberal depreciation does affect your decisions.
9 Of course, what one wonders is whether it affects indiv-
10 idual decisions to justify the amount of taxes which
11 are conceded. Have you any views on that?

12 MR. McAVITY: I would like to see if any
13 of the members of my delegation have. Truthfully sir
14 I cannot state -- I know the principles that are being
15 held, for these are investment decisions rather than factors
16 affecting the competitive ability in terms of price,
17 you make it here or make it elsewhere. The incentives
18 we were talking about here have to do more with investment
19 decisions rather than actual cost sheet of the company.
20 I am not in a position to give an authoritative answer
21 to it.

22 THE CHAIRMAN: On page 9 I was wondering,
23 I do not recall, what was recently the liberal capital
24 cost allowances in the United States and United Kingdom.
25 In the United Kingdom I know that they are very generous.
26 I did not know that they had recently become more
27 generous. Perhaps they have.

28 MR. McAVITY: I am afraid I haven't got
29 figures here sir. This came to me from two different
30 sources. People referred to that as I refer to it here.



1 THE CHAIRMAN: Mr. Perry it says you are
2 right.

3 COMMISSIONER PERRY: I think even their
4 standard rates in the United Kingdom, about a year ago
5 were liberalized.

6 THE CHAIRMAN: Were they liberalized
7 substantially in the United States?

8 COMMISSIONER PERRY: Brought them up to about
9 the Canadian level, as I understand it.

10 COMMISSIONER GRANT: Under 2 on page 9 the
11 reference there is to secondary manufacturers who put
12 forward the claim that they should be entitled to a
13 refund of direct taxes which apply to goods exported.
14 That would mean, I suppose, that those secondary
15 manufacturers who are now exporting, and exporting
16 successfully, meeting foreign competition, would be
17 enriched to that extent, in addition to their profits
18 which they are now enjoying but your submission, I
19 suppose, is that that would not matter so much if this
20 type of tax concession had the result of increasing
21 their exports materially by allowing secondary manufact-
22 urers who are not now able to compete, to compete?

23 MR. McAVITY: I think that is a fair statement
24 sir. The one problem I think facing a lot of our
25 manufacturers is the lack of volume. They have a relatively
26 low scale of volume. Therefore, do not have the
27 economic specialization and large volume production.
28 With a country situated as we, with a geographic problem
29 internally and with so many manufacturers and so many
30 of these particularly consumer durable goods, to get



1 optimum levels of production which the economy I think
2 would allow to them, they must look to the export markets.
3 Now Mr. Hughes, I know of Canadian General Electric
4 could be spokesman of this group as a whole when he
5 said, quite honestly I think, that if there were no
6 corporation taxes at all they would still not be able
7 to compete in many areas simply because there are other
8 high cost disabilities preventing them, tariff barriers,
9 in the market that they would seek.

10 MR. HUGHES: As the Chairman said a little
11 while ago, you are probably aware that a survey of the
12 Canadian Manufacturers' Association established that
13 net profit after taxes is five cents on the dollar.
14 Further, the Canadian Electrical Manufacturers' Association
15 established that two and a half cents net profit after
16 taxes on the sales dollar. Now assuming that we abolish
17 corporation taxes, assuming that the shareholders were
18 content to stay in their relative position they now are,
19 this means we could reduce prices by about two and a half
20 per cent in the electrical manufacturing industry,
21 or reduce them by about five cents in the secondary
22 industry in the broader group.

23 Now assuming that there were further savings
24 in direct material, as a result of corporation taxes
25 being abolished, then you have to assume there will be
26 some saving in excess of two and a half or five per
27 cent. I don't know what it would be but let's be gener-
28 ous and say it would be 15 per cent. -- I have posed
29 this question to people in our company who are responsible
30 for international exports and they say it would not open



1 the door to us. It would help but it would not open the
2 door. So, therefore, I am of the opinion, as far as
3 secondary industry is concerned, and it is a minority
4 group in this Association, so therefore I can disagree
5 with them but it is my opinion that we must look to
6 subsidization, if this is the wish of the Government,
7 if the income funds are of sufficient import to the balance
8 of payment situation, then I think the Government must
9 say we will subsidize you as we have subsidized the
10 shipbuilding industry or some other industry or,
11 alternatively, they should say that you go it alone.
12 It is not of sufficient importance to us to subsidize
13 you.

14 COMMISSIONER GRANT: Mr. Hughes, I would
15 like to put this question to you: Say the Canadian
16 tax policy was such that you were given outside advantages
17 over your parent company in the United States. If your
18 product could be produced in Canada and sold in the
19 United States cheaper than it could be produced in the
20 United States, and if you were in a position to undersell
21 your parent company, would you go ahead and do it?

22 MR. HUGHES: Yes. There is no limitation,
23 as far as my company is concerned. In the normal run
24 of products we cannot beat them cost-wise because product-
25 ion runs are cheaper but in specialty apparatus we could
26 beat them, in customer preference or design, which we
27 have had occasionally recently for the Canadian product
28 because of the United States customer having a subsidiary
29 in Canada who has ordered our equipment, there is
30 no limitation. We can get business without any restriction
whatsoever.



B/RPS

1 MR. HUGHES: Again we are exporting to the
2 States some things which the parent company hasn't seen
3 fit to manufacture which we think they could manufacture
4 at better profit than we could with their production
5 run, such as electric cables and washing machines and
6 specialty apparatus, but price is the only limiting
7 factor as far as we are concerned either in the States
8 or any other countries.

9 COMMISSIONER WALLS: We have in this country
10 to certain industries started giving encouragement of
11 so many tax-free years. I know that Ireland perhaps
12 give the biggest concession of all. They are tax-free
13 on products exported for a period of ten years. Follow-
14 ing that, they feel after ten years the firm will be
15 sufficiently well-established it can just continue and
16 be able to pay a proper share of the taxes. Have you
17 given any thought to the period of years of export that
18 should be tax-free?

19 MR. McAVITY: No sir, we haven't, and it is
20 a very interesting point you have raised. I have had
21 it put to me, again by some secondary manufacturers who
22 think that if they were given time, either by various
23 protections or preferably being able to take their
24 returns in other countries, some form of initial protection
25 -- just one time is all they need. They are people who
26 have already some success in bringing in exports to
27 countries, established products in some countries, and
28 they can do the same. It is hardly worthwhile to them
29 for the profit in terms of profit returns after taxes.

30 Secondary manufacturers are the minority



1 group in our Association for obvious reasons. We are
2 adding membership at a healthy rate. This is something
3 that we will be hearing from time to time in the future.

4 THE CHAIRMAN: Mr. McAvity, I would like
5 to carry on a bit with Mr. Hughes who was kind enough
6 to let us know that in the opinion of his country there
7 is no restriction on exports anyway. The only limiting
8 factor was whether the price was enough to compete. I
9 assume that motive, as a rule, is dictated by good business.

10 MR. HUGHES: That is right.

11 THE CHAIRMAN: It is not altruistic. It is
12 not directed at good citizenship. It is done because
13 a unit should be a size to achieve the most efficient
14 and economic results. They should all be seeking to
15 do their share in the best possible way. ~~Would that be true~~
16 Would that be true or is there anything beyond
17 that in such a decision because what I am looking at
18 is if it pertains to you it should pertain to others.
19 Is it natural law or something beyond, concocted for
20 some reason beyond what is natural.

21 MR. HUGHES: I don't know whether it pertains
22 to others. In our particular institution in the
23 international sales organization the parent company
24 will place orders with the best company in Italy or in
25 Canada, depending on the price solely. We don't have
26 the resources to establish a secondary sales organization
27 in all the countries as they have. In placing those
28 orders it is mostly in the field of specialty apparatus
29 that we can even come close to competing, not in
30 production things. We will get an order if we have our
price. There is no other consideration. There is an



1 additional factor, of course, and I am not at home at
2 this field, but I am given to understand that we cannot
3 compete, parent against Canadian subsidiary in front of
4 the customer in view of the anti-trust laws. I am
5 not clear in my mind on that. Aside from that if we are
6 not involving the parent company with anti-trust
7 violation then price is the only factor.

8 THE CHAIRMAN: Thank you.

9 COMMISSIONER GRANT: This would be a very
10 good example of what Mr. McAvity said earlier that the
11 advantages that Canadian subsidiaries of United States
12 companies enjoys in getting into world markets is because
13 of the fact that the parent company has established
14 some sales organization in those various countries.

15 MR. McAVITY: It is not just American. I
16 could name you one heavy capital goods manufacturer in
17 Canada exporting \$30,000,000 of goods in the past two
18 or three years.

19 COMMISSIONER GRANT: I didn't mean to
20 particularize.

21 MR. HAMILTON: I might add in our case a
22 large part of our exports are assisted greatly by the
23 fact we are part of a world-wide merchanting organization
24 which has representatives in foreign countries. If we
25 didn't have that world-wide organization through which
26 to deal it would be very expensive, perhaps impossible
27 for us to sell to say Hong Kong or India. This organ-
28 ization exists and assists us in our export activities.
29 In our case we have patent provisions that bar exports
30 to certain countries, perhaps.



1 COMMISSIONER GRANT: Perhaps it doesn't apply
2 to you and I am not directing the question to that
3 end. It would seem reasonable that a Canadian company
4 would be asked to contribute towards the expenses to an
5 extent for something like that.

6 MR. HAMILTON: Yes, in our case where we
7 sell through this world-wide merchanting organization
8 we normally pay a commission, small commission of say,
9 it varies by products-- it would average five per cent
10 of the final sales price to go to the actual merchanting
11 organization in the area to recompense for their services.

12 MR. McAVITY: If I could, Mr. Chairman, to
13 answer the question put to Mr. Hughes having to do with
14 good sound business sense. A very significant thing
15 is the growing diversity of industry to international
16 corporations throughout the world. It is more and more
17 apparent that corporate decisions and corporate operations
18 are to a greater extent international than national
19 operations, a vital decision affecting international
20 relationships, and this I have found to be very very
21 true in my discussions. To round that out I can say
22 one subsidiary has been here for many years, since the
23 beginning of the century. Their stock is something in
24 the neighbourhood of 20 per cent in Canada, stock
25 available here in Canada, the Canadian subsidiary.

26 The head of that company, born in Canada
27 had been very satisfied for many many years and has been
28 for the last three years trying to persuade his
29 subsidiary to become 100 per cent foreign-owned.

30 THE CHAIRMAN: Very interesting.



1 MR. McAVITY: Very significant.

2 THE CHAIRMAN: I have no further questions.

3 COMMISSIONER PERRY: I wonder if you would
4 mind speaking to the research situation proposal. Would
5 this be directed at this type of expenditure ~~that~~ would
6 only lead to export or do you just have in mind taking
7 the base at the present?

8 MR. McAVITY: Precisely.

9 COMMISSIONER PERRY: Just that.

10 MR. McAVITY: Yes.

11 COMMISSIONER PERRY: I guess that answers
12 my question..

13 THE CHAIRMAN: It broadens the area to which
14 this incentive would pertain. Presumably this would
15 be one of the incentives which would go out if one made
16 the broad choice of using corporation tax or incentives.

17 MR. McAVITY: There are a couple of reasons
18 for putting that in. One is again connected with
19 international corporations, the policy of head-office.
20 While there is no question that the base -- rate that
21 was given for that has been a help, I mean that it has
22 influenced greatly such research and development work,
23 I think basically we feel more research is needed. The
24 last sentence of paragraph 4A at the bottom of the page:

25 "This might be by exporting new types

26 "of products or by licensing and selling

27 "technology to other countries."

28 I think this is rather significant. This
29 comes from a couple of rather large people in the newer
30 plastics, chemistry and so forth. Others might not see



1 eye to eye. The other factor was the base period selected
2 -- it wasn't satisfactory in many major cases.

3 THE CHAIRMAN: We have heard that from others.

4 MR. HAMILTON: On that point you should not
5 overlook the advantages of licensing or selling technology
6 to other countries. This becomes more important and
7 will reflect further growth when our research is encouraged
8 and successful. We ourselves are doing that now. We
9 sell technology to Japan and also to Mexico.

10 THE CHAIRMAN: You are not suggesting you
11 are influenced by the tax incentives?

12 MR. HAMILTON: No. I think it is a means
13 of, not of adding directly to exports of Canada, but
14 certainly from the point of view of balance or payment
15 problem the work done in Canada when encouraged should
16 lead to progress in that area.

17 THE CHAIRMAN: I have no further questions.
18 Have any of you? That means that we understand the
19 balance. It is a very clear statement indeed. We might
20 say it is a very helpful submission to us. This matter
21 of exports is something that in our job we are greatly
22 concerned about, and must be. If as you go on,
23 as already indicated, you come on further information
24 or research which would be useful in our task we
25 would appreciate if that could be made available to us.
26 We thank you very much indeed for sending this in
27 and appearing today and submitting yourselves to our
28 questions. Speaking for all here we have been greatly
29 helped. Thank you very much indeed.

30 MR. LINDSAY: Mr. Chairman, may I express . . .



1 MR. McAVITY: I wonder if I could make
2 one comment. The report of the 20th annual meeting of
3 our Association was practically completely drafted so
4 from all the sources I received pressure to make a statement
5 concerning the withholding tax measures which were
6 being tabled about that time. As it turned out they
7 were tabled in the House. I haven't got thirty copies
8 here. I will table one with you and send the rest to
9 the Secretary of the Commission. I would like to file
10 this with you, sir.

11 THE CHAIRMAN: Thank you.

12 MR. LINDSAY: I would like to express our
13 thanks and appreciation for your patience and understanding
14 in dealing with our brief and we are very grateful for
15 the time you have given us.

16 THE CHAIRMAN: Thank you. Is there anything
17 else, Mr. Secretary?

18 THE SECRETARY: Yes. There are two briefs
19 to enter into the record. The first one from Volkswagen
20 Canada Limited of Toronto will be entered as Exhibit
21 236 and one from Mr. John H. L. Gillis of Victoria,
22 British Columbia will be entered as Exhibit 237.

23
24 ---EXHIBIT NO. 236: Submission of Volkswagen
25 Canada Limited.

26
27 ---EXHIBIT NO. 237: Submission of Mr. John
28 H. Gillis.

29 THE CHAIRMAN: We will stand over until
30 9:30 tomorrow morning.

---WHEREUPON THE HEARING ADJOURNED UNTIL 9:30 A.M.

ROYAL COMMISSION

ON

TAXATION

HEARINGS

HELD AT
OTTAWA

ON

VOLUME No. DATE

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2 ROYAL COMMISSION ON TAXATION

3 Hearing held in the Centre Court
4 Room, Exchequer Court of Canada,
5 Supreme Court Building, Wellington
6 Street, Ottawa, on Wednesday, the
7 30th day of October, 1963.

8 COMMISSION :

9 MR. KENNETH LeM. CARTER -- Chairman

10 MR. J. HARVEY PERRY

11 MR. A. EMILE BEAUVAIS

12 MR. DONALD G. GRANT

13 MRS. S.M. MILNE

14 MR. CHARLES WALLS

15
16
17 LEGAL ADVISER :

18 MR. J.L. STEWART, Q.C.

19
20 RESEARCH DIRECTOR:

21 PROF. D.G. HARTLE

22
23 SECRETARY:

24 MR. G.L. BENNETT

25
26 * * * * *



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October 30th, 1963

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---ON COMMENCING AT 9:30 A.M.

THE CHAIRMAN: If our visitors are ready,
I think we might start.

THE SECRETARY: Mr. Chairman, and Commissioners,
the first brief this morning is being presented by the
Children's Apparel Manufacturers' Association. Mr. Louis
Orenstein, Q.C., who is legal counsel of the Association
is here with a number of the executive members.

Mr. Orenstein will speak initially to the
brief and will introduce his colleagues. I would like
to enter this submission into the record as Exhibit 238.

---EXHIBIT NO. 238: Submission of the
Children's Apparel
Manufacturers' Association.

SUBMISSION OF
THE CHILDREN'S APPAREL MANUFACTURERS'
ASSOCIATION

APPEARANCES: Mr. H. Rosenberg Mr. Peter Covit
Mr. G.G. Newton Mr. B. Rogers
Mr. L. Orenstein, Q.C.

THE CHAIRMAN: Thank you Mr. Secretary.
Good morning Mr. Orenstein, gentlemen.

MR. ORENSTEIN: Good morning sir.

THE CHAIRMAN: I would be grateful if you
would introduce your colleagues to us. First of all,
let me introduce the Commission to you. The names are



1 all before us. You can see who they are. We have
2 read this submission with interest. There is no need
3 to read it again. We will have questions to put to you
4 but before we do, if there is anything you would like
5 to say we would be glad to hear it.

6 MR. ORENSTEIN: Thank you sir. May I
7 introduce my Committee, the members of the Executive.
8 The Children's Apparel Manufacturers' Association is,
9 as the name would lead one to believe, an Association
10 of the manufacturers from Quebec City to Winnipeg and
11 consists of 115 manufacturers engaged in the manufacture
12 of children's clothing from twelve months old to what
13 is commonly called size 14X, or, if you like, I would
14 say up to first year university.

15 The members of the Executive with me today
16 are as follows, starting on my extreme right: Harold
17 Rosenberg. Gerald Newton, commonly known as Gerry.
18 Peter Covit and the Executive Director Bernard Rogers.

19 We would like to say that we are indeed
20 humbly grateful for the opportunity of being here this
21 morning. We are well aware that some of the points,
22 if not all that we have raised in our brief have already
23 been presented at one time or another before the
24 Commission.

25 We are also well-aware of the fact that the
26 Commission has gone to the trouble and time to study
27 our brief. Our industry would like to think that it
28 is unique and that there is good cause to give that
29 particular industry some relief. Taxes are something
30 that always the other man should pay and the best



1 Government that we could possibly ever have in any
2 country is one where the taxes will be decreased and the
3 benefits to the individual citizen will be increased.
4 That we are fully aware of, but we do think, subject,
5 of course, to correction by this Commission that we
6 are in somewhat of an unique position.

7 My members would like to say that it is
8 not somewhat of an unique position. They would like me to
9 say that it is an unique position but of course that we
10 will leave to the good choice of this Commission. We do
11 say this, and I hope without fear of contradiction and
12 that is that when it comes to clothing for children
13 there is a point at issue which I do not believe has
14 been given serious consideration until now because we
15 did not have the advantage of a Royal Commission to look
16 into the matter until the present time.

17 We are presently in a state of flux where
18 the Government wisely and justly has done all possible
19 to make a higher education available to as many of its
20 citizens as humanly possible and in this field, of course,
21 Canada ranks second to none. I have over the weekend
22 had an opportunity to attend to some legal matters in
23 the United States, to be exact in Boston, and comparing
24 the benefits which are given by our Government and
25 our legislature to its citizens I would say that we
26 are indeed in a unique position in Canada to the extent
27 where we can honestly start saying today that without
28 exception the Government makes it possible for every
29 capable student to obtain an education at college level
30 but, at the same time, we do believe that there is hard-



1 ship imposed on the parents insofar as children's clothing
2 is concerned.

3 As your Commission knows, in the Province
4 of Quebec there is no sales tax imposed by the Municipal
5 and Provincial Government on children's clothing, the
6 reason for it being that there is a greater need for
7 children, for growing children than there is for adults
8 and where a father and mother may limit themselves to
9 the bare necessities, insofar as they are personally
10 concerned, the same cannot avail with respect to children,
11 because children outgrow their clothing; are more
12 active, tear their clothing.

13 In the case of little girls attending school,
14 or I should say teenagers attending school, there is
15 a tendency to be a little more style conscious, all of
16 which necessarily costs the parents more but we say that
17 is not the only point at issue. We say that in the normal
18 course of events there are larger families among the
19 labour class than there is among what we commonly call
20 the white-collar workers or, if you like, the executive
21 type with the net result that there is a greater percentage
22 of this tax paid by the people, by the segment of
23 population of our citizens who can least afford to pay
24 it, than those who are more capable of paying it and
25 if memory serves me right, I think the average size of
26 your family is 2.3 children. I have often wondered how
27 you divide a child into .3, but the fact remains that
28 whereas the average family is 2.3 children, in fact
29 amongst the so-called labour class, farmer class and
30 manual worker, the percentage is once again I believe



1 my memory is correct, 4.1 so it necessarily follows the
2 percentage is brought down by the more affluent
3 section of society.

4 We, therefore, feel that in view of the
5 economic situation and because the Government sees fit
6 to give the parents every opportunity to give their
7 children higher education, and because the burden is
8 much greater upon the mother and father least capable
9 of doing so, we believe that there has been an inequality
10 practised, although not voluntarily and not with any
11 intention of so doing. It just happened to work out
12 that way.

13 I would like, if possible, to take three
14 points and group them together and these are points which
15 I know have been brought up before the Commission. I
16 am not going to belabour them, please believe me, and
17 that is pyramiding of the sales tax. I don't have to
18 elaborate on that. We all know that what starts out to
19 be an eleven per cent tax, eight and three, But for
20 purposes of the record of course it becomes eleven
21 per cent, in fact ends up by being if not double, shall
22 we say, very substantially increased beyond the eleven
23 per cent.

24 We say that this does not tell the whole
25 picture because of the additional financing. We in the
26 needle trade -- I say "we in the needle trade" -- although
27 I am a lawyer, I have been so many years associated
28 with the needletrade in my legal duties as counsel, that
29 I venture to say I know more about it than the average
30 lawyer, probably. We in the needle trade have to grant



1 terms for payment but with very few exceptions we are the
2 middle-size manufacturer, the type of manufacturer who
3 can start business for himself.

4 We have no large corporations in the needle
5 trade, as far as children's clothing is concerned. In
6 point of fact, it is usually an employee who starts off
7 by being a chopper, a cutter, accumulates a little bit
8 of knowledge, goes into this particular type of needle
9 trade and through all his endeavours, sacrifices, and
10 what-have-you, eventually is able to progress to some
11 little extent but as capital is strictly limited, it
12 is never a question of going up and floating a bond
13 issue.

14 I doubt very much if anybody on the Commission
15 would be interested in buying shares in Peter's Tiny
16 Town Togs, or Irving Posluns Limited. It has never
17 reached the stock exchange. I don't think it ever will,
18 with all due respect to my clients, so necessarily it
19 means you take your hat in your hand and go to the
20 bank and say look, I have got to pay my bills. I have
21 got to pay my sales tax and I haven't got the money.
22 I have to pay my sales tax the following month or else.
23 Meanwhile the fellow I sold to, the season turned
24 out to be very warm and he didn't move his stock, with
25 the end result where I sold him on 30 days, 60 days,
26 I will be lucky to get paid in four months. Meanwhile,
27 I have these bills to meet with the Government during
28 that period of time, so necessarily have to pay the
29 interest. We necessarily have to have just a little
30 more clerical work to keep financing this problem.



1 The third point, and this we feel to be even
2 more inequitable, is the fact that our losses are serious.
3 You see, if we are a small industry, individually speak-
4 ing, together we constitute an important segment of
5 industry but individually we are not a large corporation
6 and I do not want to belabour this point. I have already
7 mentioned it once. We sell to people who, in many cases,
8 are even smaller than ourselves. It is true we sell
9 to the chain stores. It is true we sell to departmental
10 stores, but we also sell to the little fellow who has
11 got his store in a little side street and caters to the
12 neighbouring trade, and unfortunately for us, bankruptcies
13 occur only too often in our industry.

14 Now I won't have to bring to the attention
15 of your Commission that this is not one of the causes
16 for which you can reclaim taxes that you pay to the
17 Government. I just have to refer you to Section 46,
18 which undoubtedly you know better than I do. Now we
19 pay these taxes, but in every bankruptcy we are not
20 only held to suffer a loss for merchandise we sold, we
21 also sustain the loss of the eleven per cent which we
22 have paid to the Government.

23 Now just an interesting item on paragraph 5,
24 which I am not going to belabour because I believe
25 paragraph 5 is self-apparent in the brief, and that
26 is the competitive prices which we sustain by loss of tourist
27 trade sales. I don't know how many people of this
28 Commission come from Montreal or the vicinity, but it
29 has become common practice, for example, in a metropolis
30 such as Montreal, particularly during the summer months



1 to have the family go across to Plattsburg, to go across
2 to Burlington and St. Albans for the weekend. You have
3 your little car, be it second-hand or a new one, but
4 you somehow or other take the kids and go across to those
5 centres for a weekend to stay there 48 hours and you
6 are allowed \$25, at the present time, every four months
7 for yourself, your husband and the children that can
8 still sign their name when they get over to the customs
9 desk.

10 Time and time again the mother in going
11 across loads up on children's stuff because there is
12 no sales tax. It is cheaper. My good friend Mr. Newton
13 of Posluns just mentioned the fact within very recent
14 times he sold to a chain in the States called Corvette,
15 and naturally Corvette -- I am talking about an American
16 chain, Corvette was exempt from tax so Corvette's in
17 Detroit was selling his merchandise ten per cent cheaper
18 than was being sold by other of his customers in
19 Windsor. Is that correct?

20 MR. NEWTON: Yes.

21 MR. ORENSTEIN: If the woman wants to take
22 the trouble to visit some relatives across the border,
23 all she had to do was cross over the border and she
24 could come back, if she was so fortunate to have four
25 children, she could come back with \$125 of merchandise.
26 That is \$12.50 saving. Once again I don't want to
27 hold up the flag, but Japanese imports, I am sure that
28 by this time you have had your fill of Japanese imports
29 and Hong Kong imports and in recent time, of course,
30 we also have this new quota from Red Japan which is



1 certainly not going to help us very much.

2 I gave the figures on page 4 of the brief
3 in which you see a serious, a very serious, as far as
4 we are concerned, competition of our own product because
5 when you speak of children a hundred and twenty-five
6 dozen, considering that the population of Canada is
7 strictly limited, I think you realize that in fact
8 this a hundred a twenty-five dozen must be multiplied
9 by twelve to get the items and it is absolutely astro-
10 nomical insofar as competition to children's clothing
11 is concerned.

12 I know, too, that one of the thoughts thrown
13 out by the Commission and brought to the Commission
14 is whether there might not be a happy medium, and that
15 is that the tax be collected at the selling level, in
16 which case there would cease to be a pyramiding. There
17 would cease to be responsibility, financial responsibility
18 on the part of the manufacturer. The retailer would collect
19 it in cash or where we have to extend credit -- the
20 Government would be protected in its collection because
21 it would be a preferred claimant in the case of
22 bankruptcy and it would still have its recourse before
23 the court. Where a man has fraudulently deprived the
24 Government of his just dues, he could be brought before
25 the Court of Sessions and prosecuted and, by and large,
26 where such is the case, payment is made but we also
27 believe it would serve a two-fold purpose, and that is
28 that the eleven per cent could be decreased rapidly because
29 where the price may start off at \$1 per item, with the
30 added taxation, and what-have-you, and added profit, it ends



1 up costing much more.

2 We respectfully submit that it would result
3 ingreater purchasing power by the consumer and that this
4 fact is not unknown to the Government and this has given
5 me a great deal of pride and satisfaction that our
6 Government has in the past recognized the fact that
7 reduced taxation has resulted in greater revenue.

8 Our worthy neighbour, President Kennedy,
9 thinks he has come up with something unique: lower the
10 income tax level. I believe he must have read the
11 Canadian Statutes where the Canadian Government has
12 foreseen this and in point of fact as you lady and
13 gentlemen well know, as a typical example: where a
14 corporation would pay 22 per cent on the first \$25,000,
15 the Canadian Government has increased that to \$35,000
16 and to the best of my knowledge and belief has not
17 lost any revenue thereby so we say that if your
18 Commission in its wisdom feels that we are not completely
19 entitled to the relief we pray for, and which we honestly
20 and justly believe we are entitled to, we at least
21 feel that whatever great sacrifice on the part of our
22 Government that we believe that even add an
23 imreased revenue to our Government, there should be
24 a happy medium to the extent it is by collection at the
25 source of sale.

26 Thank you.

27 THE CHAIRMAN: Thank you Mr. Orenstein
28 very much indeed. So that you suggest a retail tax
29 as an alternative?

30 MR. ORENSTEIN: Yes.



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THE CHAIRMAN: If there was no elimination

of tax?

MR. ORENSTEIN: Yes Mr. Chairman.



RPS 1 THE CHAIRMAN: Now, right at the beginning
2 of your submission you make the point that children's
3 clothing are considered necessities of life. It is a
4 very difficult matter indeed. There are so many articles
5 we are told come in this classification and, of course,
6 it is true in many, many cases, and it is true in
7 certain quantities, and not in other quantities. I think
8 my grandchild has got a lot of clothes which were
9 not necessities of life whatsoever and I wonder where
10 it begins and where it ends. I don't know. It would
11 seem to me that one approach to this thing which is
12 perhaps a more logical approach than the exemption of
13 the whole class of goods is by some means of remitting
14 the sales tax up to a certain volume with children's
15 clothing per child. That doesn't sound very practical
16 but we have the children's allowance in Canada and it may be
17 with an adjustment of the children's allowance that
18 we could remove the sales tax in a way which would be
19 a much fairer way and then it would ^{take} care of a given
20 amount of clothing for each child rather than just an
21 unending amount which may turn out to be almost a
22 luxury.

23 Would you care to comment on that particular
24 thought?

25 MR. ORENSTEIN: The thought never came to
26 me, but we are faced with this problem, Mr. Chairman,
27 according to my way of thinking, that would be somewhat
28 discriminatory from this point of view, it would go to
29 all segments of society at the same time, the affluent
30 and the less affluent and it would necessarily mean that



1 it might be a luxury to one and not sufficient for another.

2 A typical case in point is this old-age
3 pension. Gentleman, I had a visit from a multi-millionaire
4 from Quebec who came in for me to fill in his old-age
5 pension form. He said I finally reached 70 and I am
6 going to get back some of the money I have been paying
7 all these years. Now, I quite agree, Mr. Chairman, the
8 additional \$2 or \$3 per month or whatever the Government
9 in its wisdom may see fit to pay may be of no benefit
10 whatsoever to the people who have sufficient money and
11 with the smallest families and may not be sufficient
12 for the fathers and mothers with the larger families
13 whose earning capacities are not quite that high.

14 It would be practically impossible, Mr.
15 Chairman, practically impossible to establish how much
16 is spent on children's clothing on an annual basis.
17 It would depend on the rapidity of growth. It would
18 depend on the activity of the child. Some children
19 go through shoes much more rapidly than others. They
20 are more active. It would depend on the activity and
21 attendance at some schools. To put it on a even basis,
22 in my respectful submission, might not quite meet
23 the picture, Mr. Chairman.

24 THE CHAIRMAN: Thank you, Mr. Orenstein.
25 I didn't expect it would completely fit the picture.
26 I suggest it might come closer than what you suggest.
27 If you have any further thoughts on that subject you
28 might let us know. We would be glad to have them.

29 MR. ORENSTEIN: Thank you, sir.

30 THE CHAIRMAN: Anything on point one?



1 COMMISSIONER WALLS: First of all you mentioned
2 that there is no Provincial sales tax in Quebec. Is it
3 not a fact there is no Provincial sales tax on children's
4 clothing in any province that has sales tax at the
5 present time?

6 MR. ORENSTEIN: I believe so. Yes sir, that
7 is true.

8 THE CHAIRMAN: Don't bother to stand unless
9 you wish to do so.

10 MR. ORENSTEIN: When I was preparing this
11 brief I wasn't aware of that fact. I didn't want to
12 put anything into the brief I wasn't absolutely sure of.
13 If I erred, I erred because I wasn't sure.

14 COMMISSIONER WALLS: The next question I
15 would like to put to you, you talk about excluding
16 children's clothing by size up to size 14. Is it not
17 a fact there are many adult women, particularly who
18 wear a size 12 and 14 clothing and that therefore size
19 wouldn't be a justifying factor as to whether it was
20 children's clothing?

21 MR. ORENSTEIN: Would you permit me to have
22 two members of our Committee answer that question?

23 COMMISSIONER WALLS: Certainly.

24 MR. ORENSTEIN: Mr. Covit would you like
25 to say something?

26 MR. COVIT: Regarding what you just asked
27 the type of styling and the type of pattern and the
28 cutting that is done for children up to size 14 is not
29 the same type of garment that you would get for a woman
30 who has a bustline at that size level.



1 COMMISSIONER WALLS: But you stated earlier,
2 or your counsel stated earlier that size 14 covered girls
3 who went to university.

4 MR. ORENSTEIN: Up to university level.

5 COMMISSIONER WALLS: Surely that type of
6 clothing would be suitable for adults in their 20's.
7 I know having raised a family that^{it} is, in fact, true.
8 It seems to be one of your difficulties is attempting
9 to give an exemption purely based on size. I don't
10 know how else you could do it.

11 MR. COVIT: If we could familiarize you
12 with the types of pattern and styling we use for children
13 up to age 14 they wouldn't be the same at all for any
14 young adolescent to try and fit into any of these
15 garments.

16 COMMISSIONER WALLS: The Chairman mentioned
17 the parents receive some alleviation by way of the
18 family allowance. You also, of course, realize there
19 is alleviation in the exemption from the income tax
20 for children. Why would you consider that sales tax
21 should be taken off children's clothes any more than
22 for old-age pensioners or chronically ill people or
23 crippled people. If you are going to make that available
24 for children isn't there equal justification for granting
25 something for the people in these other classifications
26 that have difficulty in financing?

27 MR. ORENSTEIN: Our friend here would like
28 to say something.

29 MR. NEWTON: Mr. Walls, you mentioned the
30 old-age pensioner and indigents and so on and so forth.



1 and unfortunately -- I shouldn't say unfortunately,
2 fortunately there are far more children in Canada than
3 there are old-age pensioners. We are here talking on
4 behalf of the children of Canada. You mentioned earlier
5 the fact that you allow the family allowance which would
6 alleviate the matter. It doesn't go far enough. If the
7 Provinces, both Quebec and Ontario -- Quebec sitting
8 on this side, and Ontario sitting on that side -- I don't
9 know whether the Quebec are separatists or what they
10 are, in any event the Provincial Governments have seen
11 fit to exclude children's wear from the sales tax
12 collected and we believe for very good reason. Whether
13 children's clothing are a necessity or not they have
14 to be clothed.

15 It is true sometimes you buy extra garments
16 that you really don't need, which is really not a neces-
17 sity, but by and large children's clothing are an absolute
18 necessity. I like to feel that our industry is comparable
19 to that of the food industry. Children cannot go out
20 without garments, without clothing just as you cannot
21 live without eating. The fact that you have this tax
22 that is pyramided to such an extent that the consumer
23 is paying far more for the garment than the garment
24 is actually worth.-- that is one level. On the other
25 level Mr. Orenstein mentioned our firm had an experience
26 in the last ten days in Detroit as compared to Windsor
27 of a firm that we export to in the United States. This
28 is a very serious matter because our customers in
29 Windsor are all up in arms, why they can sell it cheaper
30 than we can. It is very difficult to explain to them



1 there is any sales tax involved and other features of
2 exporting and so on. They just -- although we have
3 suggested an alternative our primary concern is complete
4 abolishment of sales tax for children's wear in Canada.

5 THE CHAIRMAN: Your argument would apply
6 equally well to adults' wear, wouldn't it?

7 MR. NEWTON: How do you figure that?

8 THE CHAIRMAN: Because you speak about
9 necessity. Surely I cannot go without my clothes or I
10 would get arrested.

11 MR. ORENSTEIN: I might say this, Mr. Walls.
12 I have been mulling over Mr. Walls' words and the more
13 I think the better I like his suggestion. I perhaps
14 didn't think of going far enough in that respect. You
15 have given me food for thought, a good deal of food
16 for thought. May I point out this, Mr. Chairman, it is
17 true we are also in the same situation except for one
2 18 thing, Mr. Chairman, and that is -- I don't know as to
19 what the people on this Commission do, but I do know that
20 I can make a suit last a devil of a lot longer than
21 I can make my little girl of nine wear her dresses or
22 shoes and if need be, Mr. Chairman, I can do without,
23 but I don't think I would like my child to do without
24 if I felt that my child had outgrown her dress or outgrown
25 her shoes that I should deprive her of them.

26 To you and I a suit consists of two pieces,
27 a pair of pants and a jacket whether five years old
28 or three years old or just newly bought, that isn't
29 going to make much difference but to a child it does.

30 THE CHAIRMAN: Very moving indeed.



1 COMMISSIONER WALLS: I want to bring out
2 we are not arguing with you, but we want to see it.
3 Here we are faced with a tax everybody seems to think
4 is a tax that should be continued to some extent and
5 yet we get people saying it should be applied to everybody
6 except us. We have had the old-age pensioners who
7 quite rightly say it should be taken off drugs because we
8 spend more on drugs than anybody else. If we take it
9 off children's clothes surely these other people who
10 have difficulty in clothing themselves, people I mentioned,
11 some of the poorer old-age pensioners, people who are
12 crippled, people chronically ill and many others have
13 just as much right in the matter of necessity
14 to ask that they receive exemption, and perhaps it is
15 outside of taxation that should take care of the hardship
16 cases because you will admit that many of the children --
17 while you want to make this exemption apply to children
18 the parents of all children are not having hardship
19 in clothing their children. It is only some of them.
20 Isn't that right?

21 MR. ORENSTEIN: I would say, sir, without
22 fear of contradiction it is more the rural district and
23 the labouring class or, if you like, the blue-collar
24 worker in the city that would be so. In my introduction
25 I did say that the most desirable situation would be
26 the elimination of it, but as an alternative to go to
27 the retail level collection because we feel it would
28 first of all decrease the tax. They would no longer
29 pay eleven per cent because the same sort of revenue
30 would be derived and secondly there would be increased



1 purchasing power which we believe will give the Government
2 -- we are fully aware of the fact, lady and gentlemen,
3 that no Government can function on words or on fine
4 presentations or impassioned pleas, you can't maintain
5 an army and police force and what-have-you, we are
6 fully aware of that. We are citizens but we do believe
7 that it could be imposed on a more equitable basis than
8 at present. It is our opinion and it doesn't mean that
9 the Commission has to believe it, we are fully aware --
10 we believe the Commission is set up, and from what I
11 have read of the presentations before the Commission,
12 it would appear very clearly that the Commission is
13 trying to devolve a method to eliminate inequalities,
14 injustices and that is why, I presume, we are given so
15 much time and patience from the Commission this morning.

16 COMMISSIONER WALLS: That is all I have on
17 this question.

18 THE CHAIRMAN: On the first or on the
19 second?

20 COMMISSIONER BEAUVAIS: When you make mention
21 in the United States there is no sales tax isn't it a
22 fact that, I know in New York State they have a sales
23 tax there.

24 THE CHAIRMAN: On children's clothes?

25 COMMISSIONER BEAUVAIS: They don't state
26 that. They say here the United States has no sales tax.

27 MR. ORENSTEIN: I am talking of Federal
28 sales tax. I talk to Federal sales tax.

29 COMMISSIONER BEAUVAIS: When you say in
30 Detroit Corvette is selling at a lesser price than in



1 Canada, surely that is not only on account of sales tax
2 because Corvette I think is a discount house so this
3 fact must be part of the difference between the Canadian
4 price in some instances and the American price?

5 MR. ORENSTEIN: I have put it to you,
6 Mr. Beauvais, it seems rather a coincidence there is
7 ten per cent difference between the price in Windsor
8 and Detroit on this given item and that the sales tax
9 in Canada is eleven per cent. It is, to say the least
10 a strange coincidence. There may be other factors,
11 Mr. Beauvais. It may be because it is a self-service
12 store and they have so many chains, it is also possible
13 they have a higher level of profit than the merchant
14 of Windsor and will sell Canadian ten per cent higher
15 because they start off saving eleven per cent.

16 COMMISSIONER MILNE: Mr. Orenstein, I
17 wonder if I might ask something on the first part of
18 your brief where you say it is recognized there are many
19 more items of children's wear purchased by parents
20 than purchased for parents. I wonder if you could give
21 us any information about that statement. We have
22 information that suggests that possibly seven per cent
23 of income is spent on clothing by families with low
24 income and my question really relates to seeking infor-
25 mation as to whether or not you know what portion of
26 the seven per cent is spent on children's clothing?

27 MR. ORENSTEIN: If you mean, Mrs. Milne,
28 am I in a position to give you a breakdown of the
29 seven per cent percentage-wise I am afraid I am not.
30 I do believe that I can say without fear of contradiction



1 that for every dress which a mother buys for herself she
2 will buy a much higher percentage of dresses for her
3 teenage daughter or sub-teen daughter. I will say --
4 and I can't submit figures, once again I will reiterate
5 that fact, but for every pair of trousers which an
6 adult buys for himself he will buy considerably more
7 pairs of trousers for his growing son.

8 As a lawyer I suppose I should be in a position
9 to prove my facts, but there is also such a thing as
10 what is public knowledge. I see it is Mrs. Milne,
11 I therefore take it that each one of us has had experience
12 with growing families.



RPS

1 COMMISSIONER MILNE: I must say I agree
2 entirely with your thought about the mother of teenage
3 children, and younger but I was really wondering whether
4 or not your organization had been able to supply us
5 with anything that would support the statement.

6 MR. ORENSTEIN: I may be able to give you
7 that information at a subsequent date. At the moment
8 I cannot. I would like to, please believe me.

9 COMMISSIONER MILNE: It was in respect to
10 the visit of a family from one city to a city fairly
11 close, across our American border, Canadian border, and
12 I was thinking in terms of a mother and father and the
13 four children and Detroit-Windsor is a little shorter
14 distance but in some of the other points that you mentioned,
15 and I think in Winnipeg possibly the closest place there
16 would be Grand Forks, 160 miles away. Now is it possible
17 to go that distance for 48 hours, six people and not
18 cost more than \$16.50?

19 MR. ORENSTEIN: I was hoping I had made this
20 clear at the beginning, that we were talking of centres
21 such as Montreal which are very close to Burlington, to
22 St. Albans where many people go across during the
23 summer for weekends, because there are no beaches at
24 Montreal and they cross there for beaches.

25 As a matter of fact, a good number of Montrealers
26 rent summer resorts across the border. To get away from
27 the City, take the young kids, rent a cabin there for
28 two weeks or three weeks and spend their time there.
29 Often during the weekend they will cross over. That is
30 what I was referring to. I wasn't referring, as a general



1 practice, from St. John to Vancouver. That would not be
2 true Mrs. Milne. I just say it is more prevalent in
3 some districts than others.

4 COMMISSIONER BEAUVAIS: Are you sure there
5 is no State sales tax in New York or along the border?

6 MR. ORENSTEIN: Well Burlington is in
7 Vermont. In Vermont there was none because I passed
8 through Vermont just this weekend sir. I was in Boston,
9 as you know and there was none in Vermont. None in
10 Massachusetts. In New York City I am told there is.

11 MR. COVIT: In New York City there is but
12 out of the City of New York they do not collect any
13 City sales tax whatsoever.

14 COMMISSIONER BEAUVAIS: Nor state tax?

15 MR. COVIT: No. Just in New York City sir.

16 COMMISSIONER PERRY: Just one point of
17 fact that I wondered about. Paragraph 3 on the second
18 page you refer to family allowance and in the last two
19 or three sentences you say:

20 " . . . and recall the amount of
21 "assistance plus more on the other hand
22 "by way of taxation."

23 Does this mean to say you think that the
24 sales tax on children's clothing per child per month is
25 more than -- what is the maximum family allowance?
26 \$8, \$9 a month?

27 MR. ORENSTEIN: May I say this, Mr. Perry:
28 I do not believe it was the economy of the family allow-
29 ance to provide for differences on taxes on clothing.
30 I believe the purpose of the family allowance was to



1 enable the children to stay in school for a longer
2 period of time. At least, that is what we were told in
3 the Province of Quebec, so as to raise the level of
4 education and to have less fall-outs at school than
5 what we have had in the Province of Quebec in the past,
6 and the truth of the matter is, of course, that there have
7 been less fall-outs. I am not saying this is directly
8 attributable to the family allowance. I do say it
9 has helped.

10 As you know, I have a son who is in the
11 first year McGill at the present time and is continuing,
12 although he is 17, they are continuing to pay us the
13 family allowance until he reaches the age of 18. All
14 he had to do is get the form signed by the Dean of his
15 faculty.

16 COMMISSIONER PERRY: I was not talking of
17 the social policy though Mr. Orenstein. I was just
18 questioning your argument in which you seem to imply that
19 the sales tax on children's clothing each month is more
20 than the amount of the family allowance received for
21 that child. It seems to me to be quite a striking
22 statement.

23 MR. ORENSTEIN: Directly I would say no.

24 COMMISSIONER PERRY: No. This would be a
25 very heavy volume of purchase.

26 MR. ORENSTEIN: It would be unintentional
27 because if a parent is receiving, let us say, \$6 per
28 child, be \$72 a year, it would necessarily mean that there
29 would have to be purchased for that child pretty close
30 to \$1,000 so the answer is no. I just put it today, not



1 what is in here, that it was not the economics of the
2 family allowance in the first place.

3 COMMISSIONER PERRY: Thank you.

4 MR. ROSENBERG: As far as the arithmetic
5 goes, I think Mr. Orenstein may be just a little wrong
6 in the fact that we feel that in the children's wear
7 actually that with the mark-up on the taxes, that the
8 taxes actually amount to I would say a minimum of 20
9 per cent with the result that if someone is purchasing
10 \$6 -- getting an allowance on the child of \$6 a month,
11 that it would really amount to about \$40 a month.

12 THE CHAIRMAN: That is a very good place
13 to revert to your numbered paragraph 2, I think. We
14 are very much interested in the matter of pyramiding
15 and the mark-up on taxes. Now if there is pyramiding,
16 and many people have come before us of course to
17 explain that there is pyramiding in their industry,
18 it means that the merchants are making more money because
19 of the tax than there would be if there was not any
20 tax and the way you put it to us here it would be
21 very substantial, which causes me to wonder if the
22 level was changed, as suggested by you as an alternative,
23 whether many of your merchants would disappear? Whether
24 they would become insolvent because there would be
25 a very substantial amount of profit which would be
26 denied to them.

27 MR. ORENSTEIN: Mr. Chairman, I don't think
28 so for two reasons. First of all: I believe that there
29 would be increased purchasing power. I believe it was
30 Mrs. Milne who mentioned the fact seven per cent of the



1 income is being used for clothing.
2 I believe that the purchasing power -- as you know,
3 with very few exceptions we all budget ourselves -- I
4 believe there would be more money to buy additional
5 clothing. As you point out, Mr. Chairman, the additional
6 clothing would be surplus, granted, but on the other
7 hand I believe the money not spent on clothing would
8 be siphoned off to other industries, such as household
9 goods.

10 THE CHAIRMAN: Mr. Orenstein, if that money
11 was going to emerge as additional purchasing power which
12 I rather expect you would agree it would be, a portion,
13 whatever it is, of the seven per cent would come back
14 into children's clothing, I suppose. You have to go
15 a very short distance to offset the loss of the profit
16 on sales tax surely?

17 MR. ORENSTEIN: I don't think it was the
18 purpose of the legislature in the first place to grant
19 an additional profit to the merchant. I believe that
20 became an extra bonus that was given to the merchant.

21 THE CHAIRMAN: I am not actually making
22 any plea for the merchant, but what I am merely challenging
23 is the statement made that there is pyramiding. While
24 I can see the mathematics of it, very simple to understand,
25 there are not only mark-ups, but at certain times there
26 are mark-downs. The profits that comes out is the
27 result of both moving up and down and I just wondered
28 if there were no such taxes, whether the mark-ups would
29 be a little less and the mark-downs would be a little
30 less and the end result would not be very different than



1 it is now. In fact, are not the forces of competition
2 ruling out pyramiding, for the most part? I ask you
3 that question. I don't know.

4 MR. ORENSTEIN: It would seem to me, Mr.
5 Chairman, that the competition would eliminate the
6 possible increased mark-up and I cannot help but feel
7 that once again, referring to the average blue-collar
8 worker, manual worker, farmer and farming population,
9 I am talking now, of course, of the rural population that
10 it would enable a greater purchasing power even in
11 clothing.

12 You know, Mr. Chairman, I mentioned the
13 fact that this has proved to be a bonus to the merchant.
14 It reminds me of this lad who came into this lawyer's
15 office all bandaged up, walking on two crutches and
16 this lawyer said "Oh my goodness, what happened to you?
17 You are so seriously injured. This is terrible, but
18 in any event it has already happened. Let's see if we
19 can make a few dollars on it." I believe this is the
20 position of the merchant. Well the sales tax is already
21 on. We may as well perhaps capitalize on it but I
22 do not believe that in our competitive system the
23 average merchant will be able to get away with it, Mr.
24 Chairman. I think once it becomes public knowledge
25 it has either been collected at source of sale, the
26 consumer ---

27 THE CHAIRMAN: You are missing my point.

28 MR. ORENSTEIN: I am sorry.

29 THE CHAIRMAN: I doubt very much there is
30 any pyramiding right now, right now as things exist.



1 I can understand the mathematics. I suggest to you that
2 there are other forces operating against pyramiding
3 right now which probably serve to rub this out. The
4 merchants are competing one against the other. In that
5 competition their profits are the result of competitive
6 forces rather than any mathematical figuring as you
7 suggest here.

8 MR. ORENSTEIN: Except this, sir, that it
2 9 would appear to me that where a merchant has been ready
10 to pay that amount, he adds his profit on top of that.
11 I think my clients here would probably be in favour of
12 the position.

13 MR. ROSENBERG: I think it is only a natural
14 instinct, a natural business acumen, you might say
15 on the part of the retailer who has the problem of
16 making his own business function as profitably as he
17 possibly can and rightly so, because when he gets in
18 certain merchandise and sees an invoice, quite often
19 he will have to pay for this merchandise before he sells
20 it with the result that he may have to borrow money from
21 the bank or in certain other ways raise the money to
22 pay his own bills which include the tax, and I think
23 it is only natural for him to make money on what he
24 would call his laid-down cost, that includes the freight
25 and certain other expenses that he does have in getting
26 the merchandise into his shop.

27 COMMISSIONER PERRY: I think this has
28 proven the Chairman's point. I think you are assuming
29 that he has implied something really sinister. Let's
30 put it in its purely economic terms: there must be a



1 level of profit which must be earned at each point in
2 the distribution in order to keep people in business and
3 that level of profit may appear mathematically to be
4 emerging partly as profit on the tax but if you take
5 the tax away and reduce the total margin of profit, it
6 may have to come from somewhere else in order to keep
7 people in that business. Therefore, you may think this
8 is really pyramiding of your tax but what might happen
9 when it is off, you might have to take a higher mark-up
10 simply to keep alive.

11 MR. ROSENBERG: In that instance, if you had
12 items at lower cost than they are now, you do have more
13 spending power in the Canadian public, where they can
14 spend more money and as the Chairman mentioned that there
15 is competition to sell things for less. Whenever an
16 item is sold at a lower cost there is a great deal more
17 interest in the item itself and could reasonably create
18 more interest because of people having money to spend
19 on something else.

20 THE CHAIRMAN: I was not challenging Mr.
21 Orenstein on this but I will now. I do not see where
22 the purchasing power is going to come from. It can
23 only come from two sources. One is less taxes; not
24 proposing that, and the other is less profits to the
25 merchant. Well that I very much doubt because Mr.
26 Perry has just said if they do not get it one way, they
27 will get it another way in order to stay in business.
28 Therefore, if that is the case there is going to be
29 no more purchasing power.

30 MR. ORENSTEIN: That, of course, comes



1 down to the question of mathematics. I put it that if
2 the average family will save 50 or 75 or 100 dollars
3 per year, that that extra money will be spent.

4 THE CHAIRMAN: Where is the saving going to
5 come from? From the merchant's profits?

6 MR. ORENSTEIN: No, on the tax itself which
7 has been pyramiding.

8 COMMISSIONER PERRY: I think Mr. Orenstein
9 is getting into the idea that the volume may increase and
10 therefore the merchant's profit may be maintained.

11 MR. ORENSTEIN: That is correct. That is
12 my thought in the matter.

13 THE CHAIRMAN: Yes, but Mr. Orenstein has
14 stated there is going to be additional purchasing power.
15 Where is that going to come from? Going to come from
16 less taxes or less profits. No where else to come from,
17 I don't think.

18 MR. ORENSTEIN: It's going to come from less
19 taxes in the long run because the taxes will be saved.
20 I put it to you as follows sir: instead of buying four
21 items there is enough money for five items, the overall
22 profit will remain the same. The Government will not
23 be deprived of any source of revenue, in my humble opinion.

24 THE CHAIRMAN: I see your point. Thank you
25 very much.

26 COMMISSIONER GRANT: Did I understand you
27 to say, Mr. Orenstein, in your opening remarks that you
28 would transfer the present Federal sales tax to the
29 retail level?

30 THE CHAIRMAN: Yes. That is his alternative.



1 MR. ORENSTEIN: As a compromise, yes sir.

2 COMMISSIONER GRANT: In that event, would
3 you not favour a uniform Federal Statute as well as
4 a uniform Provincial Statute? Both Acts would be as
5 uniform as you could make them, Provincial-Federal Acts.

6 MR. ORENSTEIN: We would be in favour of
7 that.

8 COMMISSIONER GRANT: You would think that
9 that would be a necessity in order to have a smooth
10 working arrangement wouldn't you in between Federal
11 and Provincial, that the Acts would have to be uniform.
12 I am only trying to develop an argument for you here,
13 and it is this:

14 MR. ORENSTEIN: I can use some help Mr. Grant.

15 COMMISSIONER GRANT: Mr. Walls has pointed
16 out that at the present time the Provincial Act ~~excepts~~
17 children's wearing apparel. Therefore, if you put your
18 Federal sales tax ahead to the retail level would you
19 not adopt the same, or advocate the same exception to
20 apply in the Federal Act as in the Provincial Act?

21 MR. ORENSTEIN: That would be nice.

22 COMMISSIONER GRANT: Therefore, isn't one
23 of your arguments it should be put forward to the retail
24 -- if the Federal sales tax is put ahead to the retail
25 level that the Federal Act should be in conformity, as
26 nearly as possible, to the Provincial Act and, therefore,
27 your children's apparel, if it is under the exemption
28 under the Provincial Act, would be exempt under the
29 Federal Act?

30 MR. ORENSTEIN: It would be nice Mr. Grant.



1 We would like it.

2 THE CHAIRMAN: That is a very good argument.

3 MR. ORENSTEIN: Thank you sir. If you move
4 it, I will second it.

5 COMMISSIONER WALLS: I was going to suggest
6 he might better move down beside you there.

7 MR. ORENSTEIN: We can get another chair
8 in here.

9 COMMISSIONER GRANT: I can assure you sir
10 that I am not in any position to move.

11 MR. ORENSTEIN: Just a hope.

12 COMMISSIONER WALLS: I have a great deal of
13 sympathy with your request in page 3, that is where the
14 manufacturers paid the sales tax, and then the firm
15 that he sells to goes bankrupt and he is out the sales
16 tax. Of course, the two cases you quote is where it is
17 a hundred per cent loss, the case that you prove on
18 page 3, but supposing, as happens many times, there is
19 a return of 10 cents on the dollar, who gets the 10 cents?
20 The manufacturer or the sales tax? That ten cents
21 could be the Government's ten cents that is paid back.

22 MR. ORENSTEIN: If we get back ten cents,
23 who does it go to?

24 MR. COVIT: Nine cents which we leave completely
25 to the Government because they have already collected
26 their eleven per cent sales tax and if we get back ten
27 cents on the dollar, one of that is the Government's money;
28 only actually get back nine cents, still out ten per cent
29 of the eleven per cent that we actually paid to the
30 Government.



1 COMMISSIONER WALLS: Yes, but you want the
2 Government, if the man goes bankrupt, to refund to you
3 the sales tax that you have paid out. Therefore if you
4 get back a portion of that, has the Government not the
5 right to say that they do not pay anything back to you
6 because you have got back the portion that was equal to
7 the lost tax?

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RPS 1 MR. ORENSTEIN: We wouldn't object to it on
2 a pro-rated basis, but, Mr. Walls, I want you to appreciate
3 one thing, I speak only of the needle trade, please
4 believe me. When the happy stage is reached that we can
5 get ten cents we feel there is a very happy bankruptcy.

6 COMMISSIONER WALLS: Thank you. Well now,
7 we get over to this business of ~~competition between~~
8 yourself and Japan. The first thing that strikes me
9 is this: You are showing an adverse position that you
10 are in in comparison with the imports from Japan which
11 have been placed on a so-called voluntary trade quota.
12 If we put into effect an exemption on clothing, on
13 children's clothing, you couldn't make it that it would
14 only apply to domestic clothing. It would have to apply
15 to all children's clothing so you ~~would be in just as an~~
adverse position in comparison with Japan as you are today. in
17 comparison with ~~Japan~~. You wouldn't gain anything at
18 all.

19 MR. ORENSTEIN: Is it your contention,
20 Mr. Walls, if such an exemption is made to us it would
21 necessarily be given to Japan and Red China although
22 there is a marked difference in price at the present
23 time, that they too would get the same benefit?

24 COMMISSIONER WALLS: I couldn't see
25 administratively how you could be selective.

26 THE CHAIRMAN: Apart from being an administrat-
27 ion point if the purpose of it is to relieve the
28 cost of maintaining children . . .

29 COMMISSIONER WALLS: That is right.

30 THE CHAIRMAN: Surely it must apply to one



1 or the other. This isn't tariff. It is tax.

2 MR. ORENSTEIN: Yes. I didn't think of it
3 from that point of view. There is a great deal of
4 justice in what you say, undoubtedly. I was hoping,
5 I was just hoping that perhaps it could be white for
6 us and black for others in view of the differential which
7 already exists and in view of the fact although one
8 might say it is voluntary restriction of imports once
9 again we are faced with another seven million dollars
10 based on Japanese price which certainly are not going
11 to help our industry at all.

12 COMMISSIONER WALLS: Getting to this
13 Japanese price you quote, you gave here, you say cotton
14 slacks that land in Canada for \$1 before sales tax
15 and is added, that Canadian manufacturers couldn't produce
16 the same article for less than \$1.50. Now, this is
17 landed in Canada for \$1. I presume that you mean that
18 the duty is already paid when you say landed in Canada.

19 MR. ORENSTEIN: Yes, I took it for granted.

20 COMMISSIONER WALLS: You realize, of course,
21 that the tariff on Japanese cotton goods coming in
22 is 25 per cent and if it contains five per cent of
23 synthetics it is 27-1/2 per cent and if it is knitted,
24 even knitted cotton it is 35 per cent. That would then
25 make the cost of the product brought in ^{from Japan} brought down about
26 70 cents. Do you mean to say that you are so far out
27 in competing with Japan that your price necessary to
28 produce the same quality product, ^{and the} same sized product
29 is over ~~twice~~ what it could be produced for in Japan?

30 MR. ORENSTEIN: I think Mr. Covit will give



1 you full figures on that.

2 MR. COVIT: We have a case in point, sir,
3 where we went up to see the Minister with a garment
4 that was being sold here for \$1.98. It was produced
5 in Japan at \$10 and this was a two-piece garment,
6 flannelette shirt, corduroy jean with plaid lining.
7 We estimated the cost of that garment in Japan which
8 ran about \$9.80 a dozen. When we added up the cost
9 of material here, just the cost of the material alone
10 it was in excess of \$14 before any cutting, sewing,
11 selling expenses, any overhead or anything at all.
12 Any garment that is being produced in Japan can be
13 bought at less than half the price of what is being
14 sold right here. You must remember that the sales tax
15 is applied before duty is put on to the cost of the
16 garment.

17 COMMISSIONER WALLS: I beg your pardon,
18 no. The sales tax is applied after duty is added to
19 the garment.

20 MR. COVIT: Sorry.

21 MR. ORENSTEIN: We went up one time when
22 there was a move by one of the Committees in Quebec,
23 we went to see the Minister of Labour at Quebec. Mr.
24 Covit here seems to have forgotten. He gave me a
25 shirt, boy's shirt packaged with a little tie.
26 It was being sold locally for \$7.75 a dozen. The
27 purchase price in Quebec was only \$12.50. As a matter
28 of fact I took it out of the wrapping. I put a little
29 piece of paper inside the shirt to indicate it was
30 Japanese and I showed it and asked Mr. Hamel



1 which was the better-made out of the two garments and
2 he picked the Japanese. It was only after I pulled out
3 the piece of paper.--that was the case. Mr. Walls,
4 if the thought comes to mind actually there is that
5 discrimination -- let us then take it that the increased
6 price is not as radical as indicated by Mr. Covitte.
7 The fact remained that the eleven per cent would
8 be added to the landed price in Canada of the Japanese
9 market. If there is any differential between Japanese
10 and Canadian the eleven per cent would be added to our
11 increased cost there. I put it to you even if there
12 is a difference of ten per cent and certainly it is
13 much more radical than that we pay eleven per cent
14 on \$1.10 and they pay eleven per cent on \$1.00. They
15 are still saving.

16 COMMISSIONER WALLS: That is fine, but the
17 case you have quoted, as I have it down, ~~is over~~ 100
18 ^{higher.} per cent./ I have even taken into consideration trans-
19 portation. You say landed in for \$1. With a tariff
20 range of anywhere from 25 to 35 per cent it seems to
21 me as if the product produced in Canada is over twice
22 as high. It seems to me that there should be two
23 alternatives to a case like that, either it is entitled
24 to dumping duty because they are selling it in this
25 country at less than the prevailing price in the country
26 of origin in which case dumping duty would be added
27 and sales tax added to dumping duty plus fair market
28 value, or, perhaps it is a line we shouldn't be
29 manufacturing if our price is so much out of line with
30 countries ~~with whom we want to trade.~~



1 MR. ORENSTEIN: We have an unfortunate
2 position, Mr. Walls of having a higher cost of labour,
3 which is rightly so in Canada, not only for the finished
4 product but for raw material as well without a shadow
5 of doubt it affects the price at which we can sell it
6 here. For example to quote on store, Kresges will
7 advertise right here in Ottawa Japanese merchandise in
8 the window at a considerably lower price -- that is
9 a flannelette shirt, perhaps a two-piece dress -- not
10 dress, a top girl's wear and it is at considerably less
11 than the Canadian market can produce it for.

12 You say perhaps it should stop producing
13 it. It is rather difficult to tell an industry which
14 only partly -- we have here 150 manufacturers to go
15 out of business. It would necessarily mean an economic
16 hardship. If the average manufacturer of children's
17 wear employs 75 employees, and that would be a fair
18 average, particularly in female that cannot be absorbed
19 in heavy industry, that would be a hardship.

20 THE CHAIRMAN: You heard more from Mr. Walls
21 than I did. I heard him say give up the line, not
22 go out of business.

23 MR. ORENSTEIN: Give up the line -- in the
24 children's field is where they are most active, Mr.
25 Chairman. As you see according to the figures wool
26 and cotton shirts which is primarily a children's item,
27 children's right here, black and white, perhaps one
28 hundred and twenty-five thousand dozen. These are
29 items we manufacture.

30 COMMISSIONER WALLS: What I was getting at,



1 you started in by quoting these figures as an example
2 of how sales tax would correct it. In other words you
3 were working under the impression that sales tax could
4 be taken off of the domestic product and not taken off
5 imported products. Even supposing that was done, where
6 you have a one hundred per cent difference of price, what
7 difference is eleven per cent going to make as to whether
8 you can compete with Japan or not?

9 MR. ORENSTEIN: There are some people --
10 we have been promoting "buy Canadian" for some time.
11 We have T.V., radio, "buy Canadian" so Canadians can
12 be employed. You may think that these are discriminatory
13 measures and discriminatory advertising -- we don't
14 believe so, sir. There is a segment of the population
15 that would prefer to buy Canadian. The Canadian
16 merchant that buys a Canadian product if it doesn't
17 stand up he has a legitimate complaint, to go back
18 to the manufacturer and say I bought it from you, you
19 make it good.

20 Eaton's has a policy, money refunded if not
21 satisfactory. He wouldn't have the same benefit with
22 a Japanese house. We hope to be able to equal, both
23 by calling on patriotism which we feel justified to do, and
24 at the same time giving a higher degree of service to
25 begin with locally. Many of these Japanese imports
26 only have certain periods of the year. You have to
27 order in advance or hope to get it at later date whereas
28 here we work up stock. We will keep the factory going.
29 He he needs the stuff he will get it whereas he can't
30 from the Japanese market. We hope through efficient



1 services to make up for the different price, at least
2 to some extent.

3 THE CHAIRMAN: I think we all agree with you
4 on that.

5 COMMISSIONER WALLS: Yes.

6 THE CHAIRMAN: We certainly wish to see
7 Canadiansemployed. The only question is how much added
8 cost can we impose on the children, because that is
9 what you are saying here, in order to keep Canadians
10 employed. Certainly one cannot go all out in one
11 direction or the other direction.

12 MR. ORENSTEIN: No, certainly not.

13 COMMISSIONER MILNE: I have just one
14 question on this particular point. I am not too certain --
15 Mr. Covit spoke about the comparison of the materials,
16 cost of thematerials which hadn't at this point been
17 made into clothing and contrasted that with the imported
18 Japanese garment and in the case of the Japanese garment,
19 the garment was less in price than the material would
20 be here. I am not certain whether sales tax applies,
21 I may be wrong in thinking it doesn't apply to material,
22 but it applies later on, but that isn't really the point.
23 What I wanted to find out was in contrasting this
24 garment that came to Canada from Japan and our own
25 Canadian product is there any material difference in
26 the materials themselves or the cut, the fit -- are all
27 these things equal?

28 MR. COVIT: You must remember one thing,
29 Mrs. Milne, that there they have labour cost of 20 cents
30 an hour and it starts from the time they start weaving that



1 cotton and we also found out that the Government subsidizes
2 all their exports and that is an accumulation of two
3 or three things. You have labour cost of 20 cents
4 when they are making the cotton. They have labour at
5 20 cents an hour when sewing up the garment plus the
6 subsidies returned from the Government on all exports,
7 and for that reason that garment comes in here landed
8 at about half the Canadian cost.

9 COMMISSIONER MILNE: Yes, Mr. Covit, I
10 realize this.

11 MR. COVIT: You mean the fabric itself?

12 COMMISSIONER MILNE: I was thinking of the
13 garment itself.

14 MR. COVIT: The fabric and make is the
15 same as ours because the local importers are taking over
16 the styling and pattern from here and they pass them
17 on to the manufacturer in Japan and they use the same
18 pattern we use here in Canada.

19 MR. ORENSTEIN: I might point out something
20 which is rather amusing. I also, besides this Association,
21 represent the manufacturers of pants, commonly called
22 odd pants.

23 THE CHAIRMAN: What kind of pants?

24 MR. ORENSTEIN: Odd pants. It was rather
25 embarrassing. I was operated on some years ago and
26 the Association sent me flowers and the nurse that brought
27 them was a French-speaking nurse and the nurse spoke
28 and added the "h". It was very embarrassing.

29 The Japanese sent in boys' gab -- gab being
30 the abbreviation for gaberdine. I hadn't been in the



1 trade for very long and one of the boys told me, look
2 at the finish, the finish of the trouser is the inside,
3 you see. A ready-made garment has a certain finish and
4 a certain number of stitches per inch. Gentlemen,
5 when I examined the inside of these trousers, the
6 finish, they had more stitches per inch than we had
7 on the Canadian pants and the finish was a much cleaner
8 finish, the edge had been trimmed whereas the cheap
9 grade of gab in Canada, particularly in the Province of
10 Quebec which is the seat of that industry was much
11 more ragged. Their product was cleaner.

12 COMMISSIONER WALLS: Just one thing, because
13 you mention the Japanese ~~exported~~ subsidy, do you have
14 any information on the announcement made ^{that} on March 1st
15 of 1964 they are going to discontinue that export
16 subsidy?

17 MR. COVIT: This statement was made. When
18 we made representations to the Minister here and they
19 made inquiries in Japan and they couldn't find out whether
20 that subsidy was paid or not. Then we found, whereas
21 there is a world market price on corduroy of 42 cents
22 for what they call high and a low off season which runs
23 at 39-1/2 cents, and we found out this corduroy was
24 sold to a manufacturer -- you must be familiar by the
25 way you talk, that all of these orders are passed through
26 the Government to certain specific manufacturers for
27 export. We found that corduroy which had a world
28 market price at 39-1/2 cents low and 42 cents high
29 was sold to these manufacturers at 23 cents. They
30 didn't do anything. They didn't apply any dumping duty



1 whatsoever. This is just one instance and apparently
2 it holds also for a lot of other garments that are
3 being subsidized that way.

4 MR. ORENSTEIN: Gentlemen, in university,
5 the late Professor Rogers, the subsequent Minister of
6 War in Canada said it is a gentlemen's agreement and
7 when they call it a gentlemen's agreement one ceases
8 to be a gentleman.

9 THE CHAIRMAN: Anything else? Those are
10 all our questions, Mr. Orenstein. Thank you very
11 much indeed for your appearance today and your assist-
12 ance in this job.

13 MR. ORENSTEIN: Thank you for your patience.

14 THE CHAIRMAN: We will break for ten
15 minutes.

16
17 ---A SHORT RECESS.
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RPS 1 ---FOLLOWING THE SHORT RECESS:

2

3 THE CHAIRMAN: All right Mr. Secretary.

4 THE SECRETARY: Mr. Chairman, the second
5 brief submitted this morning is being presented by the
6 Tax Executive Institute. I have two briefs here which
7 I wish to enter into the record, giving it one single
8 number, the supplementary one which I will attach to the
9 original. Mr. McLaughlin, who is Chairman of the
10 Canadian Committee will speak first to the brief and
11 he will introduce his colleagues who are here before
12 you.

13 I would like to enter this into the record
14 as Exhibit 239.

15

16 ---EXHIBIT NO. 239: Submission of the
17 Tax Executive Institute.

18

19

20 SUBMISSION OF

21 THE TAX EXECUTIVE INSTITUTE

22 Appearances: Mr. J. Cousineau Mr. D.D. Ross
23 Mr. Angus MacNaughton Mr. W.T. Watson
24 Mr. Sydney Ewens Mr. W.A. Greenman
25 Mr. Charles McLaughlin Mr. B.A. Diekman

26

27 THE CHAIRMAN: Thank you Mr. Secretary.

28 Good morning gentlemen, Mr. Kerner is not here I gather.
29 Mr. McLaughlin is the Chairman, I think, am I correct?

30 MR. McLAUGHLIN: Mr. Kerner's term of
office expired late last summer and I am his successor.



1 THE CHAIRMAN: Thank you very much indeed.
2 Mr. McLaughlin. We have read with much interest your
3 submission and we will have a number of questions to put
4 to you. Before doing so, would you care to introduce
5 your associates and also tell us a little more about the
6 Tax Executive Institute. You have already described
7 it, to some extent, in your brief here but there may be
8 a few things you wish to say which are not here. We
9 would be glad to hear anything you care to put before
10 us by way of amplification or summary or otherwise of
11 your submission.

12 MR. McLAUGHLIN: Thank you Mr. Chairman.
13 On my immediate right, Mr. S. Ewens, Assistant Comptroller
14 of Taxation, Imperial Oil, Toronto and Vice-Chairman
15 of the Canadian Committee of T.E.I. On my immediate
16 left, Mr. D. Donald Ross, Associate Treasurer of the
17 Royal Trust Company, Montreal and Secretary of the
18 Canadian Committee, T.E.I. Mr. Jean Cousineau at the
19 extreme right, Tax Manager of Dominion Rubber Company
20 in Montreal and a member of the Canadian Committee of
21 T.E.I. Mr. B.A. Diekman at the extreme left, Treasurer
22 of Pitney-Bowes of Canada Limited, Toronto, and a
23 member of the Canadian Committee, T.E.I. Mr. W.A.
24 Greenman, Tax and Insurance Manager, Shell Oil Company
25 of Canada Limited, Toronto, and member of the Canadian
26 Committee of T.E.I.

27 I might perhaps ask my colleagues to stand
28 so they can be identified. Maybe that would be helpful.
29 Mr. Angus A. MacNaughton, Treasurer of Sogemines Limited,
30 Montreal and President of the Montreal Chapter of the



1 T.E.I. and Mr. W.T. Watson, Assistant Treasurer, Proctor
2 and Gamble Company of Canada Limited, Toronto and President
3 of the Toronto Chapter of T.E.I.

4 Mr. Chairman, I would like first of all to
5 thank you on behalf of the Canadian membership of the
6 Tax Executive Institute for your kind invitation to appear
7 before you today. We fully realize the importance of your
8 work and extend our best wishes for the success of your
9 Inquiry.

10 I would like to outline briefly the
11 objectives and purposes of our Institute.

12 T.E.I. is a non-profit organization which
13 provides corporate tax executives with a medium for the
14 mutual exchange of information concerning tax problems,
15 tax interpretation and tax administration. Membership
16 in the Institute is restricted to persons responsible
17 for administering the tax affairs of a corporation on
18 an executive or management level. Total membership in the
19 United States and Canada approximates 1,500 with more
20 than 100 members in Canada.

21 One of the principal purposes of T.E.I. is to
22 encourage an appreciation of the significance of taxes
23 as a cost of operation and of the need to improve and
24 simplify the problems of tax administration. In line
25 with our objectives and purposes, we do not attempt to
26 influence substantive tax legislation. While most of
27 our members are involved as individuals in broader
28 issues of taxation, T.E.I. is limited in its activities
29 to the field of tax administration. As a result, our
30 submission to your Commission has been confined to certain



1 practical problems confronting those responsible for
2 tax compliance in the administration of their businesses.

3 Mr. Chairman, we are now at your disposal.

4 THE CHAIRMAN: Thank you indeed. Your
5 Organization is only recently organized in Canada. I
6 think it was formerly a part of a North American
7 organization?

8 MR. McLAUGHLIN: Yes. Our organization
9 was founded in 1944 in New York and it has been
10 established around 1956 in Canada. We have now three
11 chapters in Canada with a membership of approximately 50
12 in Montreal and 50 in Toronto.

13 THE CHAIRMAN: And you have no professional
14 staff. Such work as this must be done by yourselves.
15 Is that correct?

16 MR. McLAUGHLIN: We have no secretarial
17 help whatsoever. We have no office facilities, no
18 research facilities. We have a subcommittee on Canadian
19 taxes, the Chairman of which was Mr. Sydney Ewens, who
20 is also Vice-Chairman of the Canadian Committee so this
21 work is the work of the Canadian Committee without any
22 professional or even office assistance.

23 THE CHAIRMAN: I congratulate you.

24 COMMISSIONER WALLS: May I augment that
25 question by asking: your parent body in the United
26 States, do they maintain research facilities?

27 MR. McLAUGHLIN: They do not maintain
28 research facilities as such, although they have a
29 fairly extensive secretarial office serving the
30 membership as a whole but they do not conduct research,



1 as such other than a certain limited amount in tax
2 administration. They hold tax management seminars.
3 They hold annual conferences where you have technical
4 sessions, et cetera, but I don't think we can say we
5 conduct research in taxes.

6 COMMISSIONER PERRY: You have quite a good
7 periodical or publication. At least the Americans
8 do.

9 MR. McLAUGHLIN: The Tax Executive.

10 THE CHAIRMAN: Mr. MacLaughlin in your
11 remarks you spoke of your concern with taxes as a cost
12 of operation. I think those were the words, or pretty
13 close to them. Taking the matter of corporation income
14 tax, we have discussed from time to time what the effect
15 of an increase or reduction in corporation taxes would
16 be on selling prices of the Canadian exports and it has
17 left me somewhat curious as to what management's view
18 may be of the profits of an article, or the profits
19 which are to be made under a competitive bid or contract.

20 Does management, in such matters, usually
21 have regard to income tax as a cost or is the profit
22 computed without regard to income tax?

23 MR. McLAUGHLIN: I would like to state,
24 first of all, that the answer we will be giving to your
25 questions here are likely to be, perhaps, personal
26 answers of the members. We have not collectively conducted
27 any research, so I might give you perhaps an answer
28 which would be my own one, and if any of my colleagues
29 want to say anything which might not be fully in line
30 with my thoughts, it is quite all right.



1 THE CHAIRMAN: That is very kind of you,
2 because I realize what I am asking is not specifically
3 laid down here.

4 MR. McLAUGHLIN: It goes a bit beyond our
5 scope.

6 THE CHAIRMAN: You are, perhaps, the best
7 organization for me to put this question to in the
8 country.

9 MR. McLAUGHLIN: Well my experience, Mr.
10 Chairman, my own personal experience is that we certainly
11 take tax into account. It has been my experience that
12 if we decide to establish a new plant, the first thing
13 that we will think of is the yield after taxes. Now
14 it seems to me that to the extent that we will decide
15 whether the profitability of a project is justified
16 by a yield after taxes, to that extent at least unconscious-
17 ly we are taking the tax into account. Now that is
18 not very deep, Mr. Chairman.

19 THE CHAIRMAN: I would think there would not
20 be much doubt of that, when you are considering a new
21 plant. Considering the sale of goods, as to what the
22 profits might be in the sale of goods, I would assume
23 that you would take taxes into account, from what you
24 have said, or not?

25 MR. McLAUGHLIN: Yes. We would, although
26 I am inclined to believe that we may have been inclined
27 to give to taxes an influence perhaps which is exaggerated
28 in management. I know for a fact that in my firm we
29 have been circularized by a number of organizations who
30 want to gather data for your Commission and one particular



1 question that recurs very often is to what extent
2 is the fundamental position of management influenced
3 by taxes.

4 Now I make a distinction as between decision-
5 taking and decision-implementing, if I can use that
6 expression. It seems to me that in taking a fundamental
7 business decision taxes have not got the influence that
8 they are reputed to have, but once a fundamental business
9 decision has been taken, taxes have indeed a very
10 considerable decision in implementing, considerably
11 important in implementing the decision.

12 Now if I may, Mr. Chairman, I would like
13 to illustrate that by one example: if we negotiate the
14 purchase of a business, the only factor that will enter
15 into account in taking the decision as to whether this
16 business is a good business to buy or not, are business
17 factors. Taxes do not enter into the picture. Now having
18 decided that this is a good thing to buy, that business,
19 then the implementation of that decision will be entirely
20 guided -- perhaps this is exaggerated, but largely guided
21 by tax considerations. Shall we buy the assets or shall
22 we buy the shares? If we buy the assets how shall we
23 go about it to justify a maximum capital cost basis?
24 If we decide to buy the shares, what are we going to
25 do to solve the problem of designated surplus undistributed
26 income we inherited from the vendor?

27 This is a general statement based on my
28 own limited personal experience and I certainly would
29 make a distinction, and a very firm distinction between
30 decision-making and implementation of the decision after



1 the decision has been taken.

2 Now I would like to call on any of my
3 colleagues to see if they have anything they might care
4 to say.

5 THE CHAIRMAN: I can think of a few instances
6 which might be exceptions to your general proposition.

2 7 Of course, that does not spoil the general proposition
8 at all. I have seen transactions conducted where I think
9 one of the most important motives towards the conclusion
10 of the transaction, not implementation, was a certain
11 tax situation which was highly advantageous but, as
12 I say, that does not spoil your proposition.

13 MR. McLAUGHLIN: Mr. Chairman, I might
14 have given the impression that perhaps I was too definite
15 in my statement. What I mean is that generally speaking,
16 fundamental business decisions, at least in my own
17 limited experience, are not too influenced by taxes.
18 It is the implementation of business decisions.

19 I have witnessed myself a fundamental business
20 decision that was taken in the light of tax factors.
21 In my own limited experience it is the exception and
22 not the rule but I would say that the rule is that the
23 implementation of the decision is influenced by tax
24 consideration.

25 THE CHAIRMAN: That is very helpful.

26 COMMISSIONER BEAUVAIS: I would like to
27 ask a question sir. When you decide if it is a good
28 business transaction, to buy another business, surely
29 one of the main factors is the net return on capital
30 invested and the net return is figured after taxes so



1 in such a case the tax indication is very important.

2 MR. McLAUGHLIN: Well this is a fine
3 distinction, Mr. Beauvais. There is no doubt that the
4 deciding factor is profitability, but again taxes are
5 taken into account there because naturally the profit-
6 ability will be shared with the Government but this being
7 the case, on the yield you can get from any business
8 transaction, I doubt that this is a fundamental factor.

9 My point is this: I think that you will
10 swing the deal, most likely, for reasons that have nothing
11 to do with taxes. The deal is good or it is not good
12 and if it is a good deal, you are going to swing it and
13 after having made the decision, then you are faced with
14 very serious problems indeed in the tax field and we are
15 going to do our utmost to minimize the tax consequences
16 of the decision that we have taken.

17 COMMISSIONER GRANT: You are talking entirely
18 on the basis that you have decided, to use your particular
19 sample, that you have decided to buy the business because
20 it is a good business and because it has a potential,
21 and for other reasons. Then you take into consideration
22 the tax factor but you are still going to go ahead with
23 the purchase of the business regardless of the tax
24 factors. Am I right in saying that?

25 MR. McLAUGHLIN: I would say so sir, yes.
26 I would say that the fundamental decision as to whether
27 we are going to swing the deal is not seriously affected
28 by tax consideration.

29 THE CHAIRMAN: Hadn't you better qualify
30 that, in your reply, to the effect this is a general



1 proposition and there are quite a few things which will
2 vary the general proposition?

3 MR. McLAUGHLIN: Definitely. I do not
4 pretend to give a statement of general application.

5 COMMISSIONER GRANT: I think you could run
6 into cases where the purchaser looks upon it in one
7 way but the vendor looks upon it in another way. Usually
8 it's to the advantage of the vendor to sell shares,
9 whereas usually it's to the advantage of the purchaser
10 to purchase assets and deals have fallen through on that
11 basis because they cannot get together and not because
12 of the tax problems?

13 MR. McLAUGHLIN: I would think, Mr. Grant,
14 that you have to take into account perhaps the size of
15 the parties involved. Now if a large corporation wants
16 to buy a medium-sized or small business, I would say
17 that the tax considerations are likely to play a much
18 smaller role than they would in the case of a medium-
19 sized corporation because of the fact, in the case of
20 a large corporation, the tax problems are problems that
21 you can defer, very often, indefinitely, without any
22 or serious inconvenience.

23 I will give you an example: if we buy a
24 business through shares, and we are stuck with the
25 designated surplus, in the case of a large corporation
26 I believe that this is not a serious inconvenience because
27 you are the master of the situation whether you pay
28 taxes on the designated surplus or not. All you have
29 to do is not distribute and for the large corporation
30 this is no problem. You can keep a subsidiary corporation



1 inactive at little cost indefinitely. Now that might not
2 be the situation in the case of a purchaser of a much
3 smaller, medium-sized or small business so I think you
4 have got to take these factors into consideration and
5 that is why I do not want definitely to pretend, and
6 that was not my intention and I want to insist on that,
7 to make the statement of general application.

8 I am connected with a large corporation and
9 perhaps my thinking is coloured by that. Certainly in
10 my own limited experience, I feel that fundamental
11 decision-making is not affected by tax considerations
12 as much as we have been told, very often.

13 COMMISSIONER WALLS: I wonder if I can
14 get something clarified here, because I am not with you
15 and I must bow to your knowledge, but it would seem
16 to me that I can understand your reasoning if you are
17 speaking about a branch or a subsidiary where the tax
18 problem would not be a paramount one. Surely, in the
19 case of a new business you are going to judge it on the
20 basis of the profit after taxes and if you do it on
21 the basis of profit after taxes, then you must consider
22 taxes.



RPS 1 COMMISSIONER WALLS: Am I right or wrong?

2 MR. McLAUGHLIN: You are right but the
3 distinction I made there is this, inasmuch as profit
4 from any business is subject to taxes of 50 per cent,
5 let us say for convenience sake a flat 50 per cent you
6 are taxed on everything you do in any business trans-
7 action, to that extent I claim that it does not
8 affect the fundamental decision because any profitability
9 study will be based on yield after taxes and the remaining
10 factor -- my point is you don't swing a deal, big
11 business deal based on tax considerations, but after
12 you have made the deal then you give a lot of attention
13 to tax consideration. Again I may have been coloured in
14 this statement by the fact I am connected with a
15 large Corporation and certainly we probably take a
16 different view of things than the small business does.

17 THE CHAIRMAN: I don't think that would follow.
18 The economies when you go off to acquire something is
19 pretty much the same as other people going to acquire
20 something. You do it to achieve profit and taxes are
21 one of the costs, that is perfectly true. There are
22 an awful lot of other costs that concern future profits.
23 To operate from a profit and loss account, that is one
24 of the things that has been exaggerated.

25 COMMISSIONER PERRY : I can follow the point
26 Mr. McLaughlin is making in terms of the corporate size
27 because the president, vice-president, general manager
28 are not primarily tax conscious. They are thinking in
29 different terms, getting in new lines, expanding in
30 new products, new territories. They make their ideas



1 on this base and they then ask their tax advisers how
2 this can be done in the most efficient tax way. I wouldn't
3 be surprised at all if occasionally they even disregard
4 their advice and go ahead anyway.

5 MR. McLAUGHLIN: Definitely, very definitely.
6 I know something about that. I know large companies
7 take decisions in the light of tax advice all around,
8 but my experience is again that it could be that the
9 best tax advice might not be weighty enough in the scale
10 to swing the decision in the opposite way.

11 COMMISSIONER PERRY: Completely either way
12 by some other consideration.

13 MR. McLAUGHLIN: Absolutely.

14 COMMISSIONER PERRY: Management feels is
15 more important.

16 MR. McLAUGHLIN: I feel that the fundamental
17 business decision is taken in the light of economic
18 factors.

19 THE CHAIRMAN: You take me a little bit away
20 from where my line of questioning was going to lead me.
21 This is quite interesting. I want to understand this
22 fully. Anything further on this point? Where I was
23 endeavouring to proceed was to the affect of taxes on
24 the market price of goods; if taxes in Canada were
25 reduced I can see they would have some similar effect
26 throughout the market and one wouldn't necessarily gain
27 as opposed to his competitors. If it were in the
28 export market and taxes were reduced would calculations
29 of the sale price in the export market be affected by
30 the reduction in taxes? Would the sales department be



1 able to go in and bid with lower prices than they are
2 now able to bid at? From your calculations can you say
3 yes this would have an affect on our sales price in
4 international markets?

5 MR. McLAUGHLIN: Mr. Chairman, that is a
6 point that might depend a lot on the particular situation.
7 My own experience is with the corporation income tax
8 that we have to find in relation to sales it couldn't
9 possibly influence the selling price in the export
10 market.

11 THE CHAIRMAN: Could or couldn't?

12 MR. McLAUGHLIN: Couldn't influence
13 substantially unless it was very drastic, a very drastic
14 reduction in terms of far more than I am sure you have
15 in mind. A small reduction in corporate tax I don't
16 think could possibly influence significantly the price
17 of exports. What have you to say on that?

18 MR. EWENS: I think probably what you have
19 said generally is true. A significant change in corporate
20 income tax might have a bearing. It could do one of
21 two things.

22 THE CHAIRMAN: So we know what we are talking
23 about let us say five percentage points.

24 MR. EWENS: All right.

25 THE CHAIRMAN: Fifty down to forty-five.

26 MR. EWENS: To what extent that might
27 influence the marketers in corporations to change selling
28 prices to get into export locations I am not prepared
29 to say.

30 THE CHAIRMAN: That is what I am reaching for.



1 MR. EWENS: I think it would have effects
2 of this sort, where you have made investments with a
3 stated return in mind and foreign competition has influenced
4 adversely that return the drop of the income tax rate
5 will, perhaps, put the investment back into the income
6 earning position you had originally anticipated and
7 it will make some now uneconomic investments look more
8 attractive. Whether it would influence, or whether it
9 would be possible to change actual selling prices I
10 am not prepared to say.

11 THE CHAIRMAN: It might make an otherwise
12 uneconomic price now an economic price?

13 MR. EWENS: Right -- I say a change in the
14 income tax rate would make an uneconomic investment
15 more attractive.

16 THE CHAIRMAN: I was just asking would such
17 a change in tax make an uneconomic selling price
18 economic?

19 MR. EWENS: It could be, yes.

20 MR. MacNAUGHTON: That might be carried one
21 step further: a plant that has been built or was being
22 built for purposes of selling products solely to the
23 export market, the reduction in price might have a great
24 deal of bearing as to whether it was built in Canada
25 or not and if the tax rate was lower it is quite possible
26 it might attract this industry to Canada rather than
27 to some country where the tax rate might have a better
28 effect.

29 THE CHAIRMAN: Could you in your job visualize
30 a computation based on a lower tax rate which would be



1 profitable and the higher tax rate wouldn't be profitable and
2 with -- would you sit down and work it out?

3 MR. MacNAUGHTON: I would say in our
4 experience where we have built a plant, we decided to
5 build one where one hundred per cent of the products
6 would be on the export market in spite of the tax here.
7 Certainly reduction in tax would make the profits in
8 this particular circumstance much greater, but the
9 partners involved were mostly not Canadian and were
10 prepared to accept a lower rate of return than the
11 average Canadian investor would accept. I think probably
12 that is the reason why the plant is being built by
13 foreign investors rather than Canadian investors.

14 THE CHAIRMAN: Surely the dividend credit
15 would go some distance to equalize the difference between
16 the Canadian investment, wouldn't it?

17 MR. MacNAUGHTON: To some extent, but it
18 is much -- it is a long-term point of view as well as
19 a matter of immediate return. Most new plants don't
20 provide immediate returns and Canadian investors seem
21 to be more reluctant nowadays to build something that
22 won't provide relatively quick returns whereas a
23 number of foreign investors take a long-range point of
24 view and are prepared to build plants that will produce
25 lower returns over a longer term.

26 MR. DIEKMAN: I believe I might add something
27 to this. I cannot conceive in my operation if there
28 was a five per cent reduction that I would sit down with
29 a pencil and say I am satisfied with the 50 per cent
30 tax rate there was \$1 after taxes and now I am content



1 to go on earning \$1 and the five per cent reduction might
2 give me \$1.10 but I am still content with \$1 and therefore
3 I will reduce my price. I believe in ordinary marketing
4 if the market will stand the price that I am asking I
5 don't think I am voluntarily going to drop my price.
6 Rather I am going to say hurrah, more for me, for the
7 shareholders.

8 THE CHAIRMAN: I think I must have stated
9 myself incorrectly. I wasn't really suggesting it would
10 be a good idea to voluntarily reduce price. I was
11 really asking or seeking to ask whether such a reduction
12 would cause you to be more competitive on the international
13 market? Would you then be able to reduce the prices
14 which you are not otherwise able to reduce?

15 MR. DIEKMAN: Yes, that I think could be done.
16 I think that could be done.

17 THE CHAIRMAN: Does the fact taxes are
18 only collected on profit mean reduction in taxes would,
19 in fact, not enable you to reduce price against
20 competition? I was seeking to find out whether reduced
21 profit tax would make you more competitive or not?

22 MR. McLAUGHLIN: Here is a point that comes
23 to my mind. I believe the Terms of Reference of your
24 Commission, that you can't recommend an overall reduction
25 in taxes. If you propose a reduction in the corporation
26 income tax, I believe that we have to know what it would
27 be replacing in order to find out its effect. I will
28 tell you an example that I have personally gone through.
29 One organization circularized by form for the purposes
30 of preparing a brief, they claim, to your Commission. They



1 asked us one question: what would be the affect on
2 your company's operation if the corporation income tax
3 rate were reduced from fifty to forty-five cpar cent.
4 Of course that was passed down the line from management
5 to me. I said, I can't ~~answer that~~. So they said, what
6 do you mean, you can't answer? I said, because the
7 Terms of Reference of the Commission have been that there
8 must not be an overall loss of revenue, you have got to
9 balance. These people have got to tell me what they
10 propose to substitute for the deduction. They might
11 propose something which would be worse for us.

12 At that time, that was in the fall of 1962
13 I had no idea that they were going to extend sales tax
14 to machinery, equipment and building materials, but
15 I had heard possible rumours about it. I told the
16 management of my firm, here are the figures, suppose
17 there is a reduction in the corporation income tax
18 from fifty to forty-five per cent and in order to replace
19 the loss of revenue the Government introduced a sales
20 tax on machinery, equipment and building materials --
21 here are the figures. I demonstrated to them that the
22 company would be worse off.

23 THE CHAIRMAN: Mr. McLaughlin, when you
24 put it to us you can only reply to the questions if you
25 know what substitute tax is going to be imposed you
26 really close the door to any exploration because in order
27 for us to consider what changes must be made we must
28 try and see the effects of each of the alternative
29 changes that there are. When I put these questions to
30 you I am looking at the possibility of one move. I want



1 to find out what you can tell us about the effects of
2 that, and having regards to that we could go on to some-
3 thing else, ask about another and find what the facts
4 on that are. You can't go out in all directions at the
5 same time.

6 MR. McLAUGHLIN: I am sorry, Mr. Chairman,
7 I didn't mean you should suggest to me what you have
8 in mind. I meant to stress the fact it is pretty hard
9 to assess the effects of a tax change without knowing
10 what will be the corresponding change.

11 COMMISSIONER WALLS: Maybe we should be
12 asking you if the corporation tax is lowered five per
13 cent ^{by what tax} ~~and~~ would you recommend it should be offset?

14 COMMISSIONER GRANT: Mr. McLaughlin: you
15 have yourself to blame for this discussion by raising
16 it in your opening submission. It isn't contained
17 in your brief whatsoever.

18 MR. McLAUGHLIN: I think that the discussion
19 so far, Mr. Chairman, has been beyond our scope and I
20 was careful to mention that any comments would be personal
21 comments from the members and not from the group.

22 THE CHAIRMAN: Supposing we move on to
23 what is in here. On page 7 you make a comment with
24 regard to the complexity of some of the rules of taxes
25 and I observe one that has regard to the first \$35,000
26 of corporate income. You don't come up to a recommendation
27 there. Some people have suggested to us that there should
28 not be two steps in the rate, and in saying this I think
29 that they have had regard very largely to the complexity
30 and the need for different rules in order to achieve this.



1 They suggested other means of getting at this than two
2 rates. Do you have an opinion that it would be better
3 to drop the two step corporation tax rate in the interest
4 of simplicity?

5 MR. McLAUGHLIN: Mr. Chairman, again this
6 is a bit beyond the scope of this group. I must say
7 I have a personal opinion on that.

8 THE CHAIRMAN: I would like . . .

9 MR. McLAUGHLIN: I think one of the
10 great sources of complexity in the Income Tax Act is
11 double taxation on corporate income. It seems to me
12 that one possibility of achieving or reaching a solution
13 in that area could be done in a way which would accomplish
14 the desired economic objective and at the same time
15 eliminate a great deal of the complexity and it would
16 be this: exemption of dividends in the hands of Canadian
17 residents. You might say this is a bit drastic, but
18 it seems to me that the experience in the last budget
19 where the Minister of Finance claimed that he wanted to
20 encourage Canadians to increase participation in Canadian
21 industry and goes about it by hurting foreign investors
22 and doing nothing positive to encourage Canadian
23 investors -- it seems to me that a suggestion like that
24 would encourage Canadians to buy equity, ~~then~~ discourage
25 foreign investors and with one stroke of the pen forget the prov-
visions dealing with undistributed income, designated surplus in
27 the corporation, a serious thing.

28 Perhaps there would be political objections
29 but one way to resolve that would be to have a progressive
30 personal tax schedule with a ceiling in rates equal, say,



1 with the maximum rate which would be equal to the
2 corporation tax rate. In that case, well you could
3 answer to the objection that a man receiving say \$100,000
4 out of dividends, he should pay taxes if his neighbour
5 who is a salaried employee earning \$5,000 pays taxes.
6 I believe as an answer to that, he has already borne
7 taxes of 50 per cent through the corporation which is
8 the maximum personal tax rate. This is a thought which
9 is entirely personal and doesn't commit anybody here.

10 MR. ROSS: Personally I would like to add
11 my belief, there is a good deal or argument for removal
12 of taxation on dividends to non-residents. The case
13 has been proven very strongly to every Canadian . . .

14 MR. McLAUGHLIN: You mean Canadian?

15 MR. ROSS: To Canadian residents, I am sorry.

16 THE CHAIRMAN: We have had this before us
17 and there are so many combinations of avoiding double
18 taxation in corporate income. I am not sure that this
19 is the right time to explore this. It is a long subject
20 and we haven't actually made a recommendation on it.
21 We would be exploring your own views, which are interesting --
22 I am not suggesting they are not, but it is a pretty
23 difficult matter. I can think of a lot of counter-
24 arguments to your proposal. I imagine you can yourself.
25 I would be concerned that if we involve ourselves in
26 this now we would go on now for quite a long time on the
27 subject. I don't think I want to unless your group is
28 going with you on it and unless you have actually done
29 a fair amount of work on it.

30 We have the staff looking at



1 this at the present time and there are enumerable
2 combinations.

3 MR. EWENS: My opinion is these are personal
4 views. I would agree it would be a subject that should
5 not be opened up [!]carefully at the present time.

6 THE CHAIRMAN: If any of you care to express
7 yourselves on it, but I don't think I am going to ask
8 any questions on it and I don't think the Commission will.

9 COMMISSIONER PERRY: I notice on page 3 that
10 you attach great importance to the existence of complexity
11 and uncertainty in tax laws as a reason for tax planning.
12 I suppose even under simple statutes there has to be
13 quite a bit of tax planning involved. Is it directed
14 predominately towards -- does that point arise predominately
15 out of the complexity of Tax Statutes -- this may be
16 a matter of semantics, as to what tax planning means.
17 I was thinking in earlier discussions where we were getting
18 into the question of returns after taxes -- the mathematics
19 are very simple. They can't require much staff, actually.
20 I just assume as long as rates are high you are going to
21 have quite a bit of this so-called tax planning going on.

22 Is there any way of weighing the relative
23 importance of high rates as against complexities?

24 MR. EWENS: I think, Mr. Perry, as you
25 suggest there there would always be tax planning required.
26 I think it is a very complex section of the Act and
27 adds a material burden to the amount of tax planning.

28

29

30



1 MR. EWENS: We experience undistributed income
2 provisions, for example, on a business acquisition add a
3 lot of time to the amount of tax planning that must be
undertaken.

4 THE CHAIRMAN: I think I certainly agree with
5 you, they have an awful lot of tax expertise spent on that
6 area and also another area referred to here.

7 COMMISSIONER WALLS: Before we start on page
8 4, I wonder if I can have clarified for myself just what
9 you mean by the words "tax nothings".

10 THE CHAIRMAN: That is page 4.

11 COMMISSIONER WALLS: Before we start discussing
12 it I would just like to know the interpretation of
13 "tax nothings".

14 MR. EWENS: Tax nothings, Mr. Walls, is an
15 expenditure that attracts no tax relief at any time. In
16 other words, it is an expenditure which does not qualify
17 as a current income deduction. It is considered by
18 the Revenue authorities to represent capital but not
19 depreciable capital so there is never tax relief now or
20 in the future.

21 THE CHAIRMAN: What are your nothings in this
22 case that you refer to? We have had some instances of
23 nothings but usually they relate to particular industries.

24 COMMISSIONER PERRY: I had a point before that
25 about the meanings of words and I would just like to
26 recite to you the experience that I shared as one who
27 redrafted the Income Tax Act, or assisted in redrafting
28 it in 1947, 1948. Over and over again the laymen in
29 the group suggested that a word be defined and over and
30 over again the lawyers say why do you laymen always



1 want to make life complicated? There are lots of
2 dictionaries. The basic principle of law is that words
3 have their ordinary everyday meaning, unless stated
4 otherwise. Now do you want to start setting up
5 special dictionary meanings within this statute? If
6 you do, we will be here another hundred years and I am
7 wondering to what extent you have considered that point,
8 whether it is a sort of a marginal problem where there
9 are just a few words which require definition, or whether
10 in fact the lawyers are right and that is do you want
11 to write a special tax dictionary? Any comments on
12 that?

13 MR. EWENS: I think probably the meaning of
14 words become most important, Mr. Perry, depending upon
15 the significance of the tax problem and how expensive
16 an issue is at stake.

17 If a corporation is looking at an extremely
18 large disallowance by the Revenue Department, then I
19 think the corporation and its tax advisers and lawyers
20 attach more meaning to words than they might otherwise.

21 COMMISSIONER PERRY: Well granted that the
22 meaning of words has always been an obscure business, even
23 for words in common usage, I think there still is the
24 point that to the extent you set up special language in
25 the Statutes, you are making it more and more difficult
26 for the laymen to understand the statutes at all. You
27 quite often find that the ordinary, everyday use of it
28 is not what is implied in the Statute at all. It is
29 something special and if he has not noticed it is
30 defined ---



1 COMMISSIONER WALLS: Don't you have to have a
2 definition in any Act if there is a limitation? In other
3 words, you can use a term, just pulling something out of
4 the air, "farm". In certain acts it is necessary to
5 define what is a farm and I think that there is a great
6 need for definition in any Act if there is any limitation.

7 COMMISSIONER PERRY: Or if there are special
8 meanings to be attached to the word. However, I am
9 just wondering if there is an opposite point of view
10 here than that put forward by the lawyers who, one would
11 expect, would want everything under the sun to be
12 defined.

13 MR. DIEKMAN: Mr. Chairman the taxpayer may
14 base his decision on the normally accepted interpretation
15 of the word, and then suddenly find himself up against
16 a somewhat different interpretation by the Revenue
17 Department. That goes the other way again but I think
18 Mr. Ewens is quite right when he says that it all depends
19 on the significance of the amount involved.

20 COMMISSIONER PERRY: I think what you are
21 saying is that the normal interpretation put on a word
22 has something to do with your basic purpose.

23 MR. DIEKMAN: I think so. I certainly do not
24 mean to say the Revenue Department, for its own purposes,
25 suddenly decides to give a different connotation to a
26 word than its normal meaning. I would like to emphasize
27 that the taxpayer is quite easily capable of doing it
28 himself, if it is to his advantage to do so.

29 THE CHAIRMAN: Would you have a list of
30 "nothings"? We would very much like to have it. I



1 don't think I can ask you off the bat to come forward
2 with a list, unless you have one but we are gradually
3 hearing more about this in various industries coming up
4 complaining that certain costs would not be permitted
5 to them. These are generally special to their
6 particular kind of undertaking. I am wondering if we
7 are in fact missing something. If you have had any
8 experience in this, we would like to know about it.

9 MR. ROSS: I would say, Mr. Chairman, some
10 that are common to practically every industry and this
11 is the professional fees, legal, architect's fees that
12 are laid out in connection with capital, may form a
13 capital purchase or investment; architects fees in
14 connection with a building that actually is not
15 ultimately built, and so on.

16 THE CHAIRMAN: That is a start on the list.
17 Yes?

18 MR. ROSS: Legal fees in connection with any
19 intended purchase, whether it materializes or not, capital
20 outlay.

21 THE CHAIRMAN: Litigation of some kind?

22 MR. ROSS: Litigation of any kind.

23 MR. McLAUGHLIN: Expenses for selecting a site
24 for a new plant.

25 COMMISSIONER GRANT: Improvement to land, I
26 think.

27 MR. McLAUGHLIN: Improvements to land.

28 THE CHAIRMAN: If you have any more, drop us
29 a line would you?

30 MR. McLAUGHLIN: Certainly, we will be glad to



1 do so, Mr. Chairman.

2 COMMISSIONER PERRY: I wondered, as I read
3 the way in which you put this, why you felt that there
4 was a lack of certainty here? It would seem to me
5 there is more and more certainty all the time. Lack of
6 certainty about having things as you see them, I guess.

7 MR. McLAUGHLIN: Lack of certainty on
8 deductibles.

9 MR. EWENS: More and more nothings, Mr. Perry.
10 We are never sure which is going to be the next one.

11 THE CHAIRMAN: I have moved to page 5. On your
12 numbered paragraph 1 you say that there should be
13 uniformity of tax decisions issued by the various
14 district taxation offices. I wouldn't know why. Were
15 the offices far apart at the present time? I believe
16 they have a uniform book of instructions. I would
17 assume that they follow it and that the purpose of the
18 book is to keep them close together. Is it your
19 experience that they are not?

20 MR. MacNAUGHTON: I think the answer to that
21 is in certain cases, particularly the areas that do not
22 fall into the instructions that have been distributed
23 to the various tax departments. Then I think the
24 situation is that one may go to two different tax
25 departments or subsidiaries and get a different ruling
26 on exactly the same subject because there is nothing
27 set out in the regulations by the head office.

28 THE CHAIRMAN: Well maybe I have seen that
29 occur, but I haven't seen it happen very often. I don't
30 know quite what I would propose to cure this. You have



1 suggested a committee of National Revenue, Finance and
2 Justice. I don't know whether that would cure the
3 matter you speak of. It's administrative within the
4 Department. I must say I think it is important. If
5 they are far out of line, they should not be far out
6 of line.

7 MR. MacNAUGHTON: I must confess the ones I
8 have seen are of a minor nature; they haven't been too
9 important. When they are of a major nature, of course,
10 you go immediately to Ottawa and try to get the problem
11 solved so I don't know how big a problem it really is.

12 MR. EWENS: In our supplementary submission,
13 Mr. Chairman, we cite about five examples.

14 THE CHAIRMAN: I am sorry, I did not realize
15 that.

16 MR. EWENS: But we did not canvass our
17 membership completely, by any means in establishing
18 these few examples for you.

19 THE CHAIRMAN: Yes, I see, starting at page 4?

20 MR. EWENS: Yes.

21 THE CHAIRMAN: Thank you very much. This
22 probably answers my question very satisfactorily.

23 COMMISSIONER PERRY: I think the difficulty
24 the administration has here is that the only way in
25 which it could hear about these diverse rulings is from
26 the people to whom they have been given and I think the
27 most effective way of achieving uniformity would be
28 to report cases of this kind.

29 I think the administration are anxious to
30 achieve uniformity across the country, and are working



1 fairly hard at it all the time themselves, but the
2 people who are likely to know most about this are the
3 taxpayers themselves quite often.

4 MR. MacNAUGHTON: Some of the more difficult
5 areas, Mr. Perry, are not ones that involve large
6 amounts of money for the corporation, so much as
7 frequently for its employees, where you have a benefit
8 of some kind, and you advise your corporate employee
9 group as a whole that this is the tax treatment that
10 has been decided on, and then a couple of employees
11 get different tax answers in their respective district
12 taxation offices. This could become quite embarrassing,
13 particularly if there were rumours spread through an
14 employee group.

15 COMMISSIONER PERRY: You are rather disillusion-
16 ed about this sort of thing when in England you find
17 that there is a little committee with Commissioners,
18 must be a dozen or two dozen just in the City of
19 London, in the area of London itself are giving all
20 sorts of different decisions on appeals. These apply
21 to the taxpayers concerned, and you move away another
22 half dozen blocks and they are acting on a different
23 basis, and you ask the Inland Revenue if this doesn't
24 upset anyone, and it doesn't appear to. They don't
25 seem to be striving for uniformity within even a fairly
26 compact area.

27 COMMISSIONER BEAUVAIS: The most important
28 cases are referred to Ottawa anyway nearly all the time?
29 You are just talking about employee cases mostly aren't
30 you?



1 Mr. MacNAUGHTON: I think this is the area
2 where you have the greatest frequency of cases.

3 COMMISSIONER PERRY: There may be a little
4 problem here of noblesse oblige in trying to upset
5 things for someone else who has had a different and more
6 favourable ruling.

7 MR. MacNAUGHTON: This is exactly the case.
8 I think if the ruling is a good one, you are scared to
9 bring up the bad one in case the other one was bad too.
10 Just leave it alone. I think this is the situation.

11 THE CHAIRMAN: That is point one. I think we
12 can all agree it is desirable that maximum uniformity
13 be achieved. Point 2 on that page you speak about the
14 penalty of full disclosure and you recommend that the
15 Department should establish more definite disclosure
16 rules so that, as far as possible, all corporations
17 will be required to file comparable detailed supporting
18 evidence with their tax returns. I would assume that
19 this means some additions to the present corporate form
20 of tax return. Whether it is written into the form of
21 tax schedules, I wouldn't know. It would be something
22 in addition, would that not be correct?

23 MR. EWENS: That was our thought, Mr. Chairman.

24 THE CHAIRMAN: Have you carried that to the
25 point where you are more specific about it as to what
26 additional information should be regularly filed?

27 MR. EWENS: Personally no, we have not, to my
28 knowledge. I don't think this Association as a group
29 has done that Mr. Chairman.

30 THE CHAIRMAN: I wasn't aware particularly of



1 this concern before you put it in here. I would have
2 assumed where disclosure was not complete, the Department
3 would have sought what they needed for assessment
4 purposes and, therefore, disclosure would have been as
5 good in the one case as in the other. You apparently
6 have had some experience in those circumstances where
7 there has been a penalty incurred as a result of
8 disclosure which would not have arisen otherwise. Is
9 that correct?

10 MR. EWENS: Penalty Mr. Chairman or, perhaps,
11 another point of view also, the uncertainty of not
12 knowing what you may be required to give detailed
13 evidence about. This is becoming more important with
14 the introduction of computers into business. If a
15 computer program knew in advance what the revenue agents
16 were going to ask for details about, you could build
17 this kind of result into the computer program. Often,
18 it is very difficult when you are depending on computers
19 to after the event trace through the tapes and other
20 computer results to dig up the information that is
21 required.

22 THE CHAIRMAN: Perhaps I have my mind focused
23 in the wrong area but I am thinking about the
24 reconciliation that usually accompanies corporate tax
25 returns as between its reported income and the taxable
26 income and the rule goes into considerable detail. I
27 daresay that the Department has not laid out
28 specifications as to what should be in there but I
29 think what you are saying to us is that there should
30 be specifications as to how that information should be



1 set out and what details should be provided. Am I
2 correct?

3 MR. EWENS: It would be useful to know in
4 advance the area of examination, particularly in connection
5 with the use of computer equipment.

6 COMMISSIONER BEAUVAIS: Is it not a fact
7 that for certain industries this situation exists; for
8 instance in the newsprint industry they ask specific
9 statements, besides the reconciliation of the taxable
10 profit. The companies in the newsprint industry know
11 in advance what they have to submit to the Government; such
12 as detailed statement of fixed assets purchased or sold
13 during the year. Is that what you have in mind?

14 MR. MacNAUGHTON: Yes. I think that is
15 probably a good point. A smaller corporation I think
16 tends to perhaps list in pretty much detail all the
17 particular assets they bought during the course of the
18 year which means the Tax Department can scrutinize each
19 item. Whereas, the larger corporations, have many
20 transactions in its return, does not list each indiv-
21 idual purchase that is made, so to some extent there
22 may be many items that have been buried and not easily
23 traced as a result of this lumping of many purchases
24 together. Perhaps they are getting a benefit the
25 smaller taxpayer is not able to obtain.
26

27 THE CHAIRMAN: You have not tried the
28
29
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1 suggestion out on National Revenue, have you?

2 MR. MacLAUGHLIN: No, we have never approached
3 the Department.

4 COMMISSIONER PERRY: They are getting some
5 computers so they will probably want uniformity.

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/RPS 1 MR. McLAUGHLIN: We have to send a computer
2 to Ottawa to talk to the computer of the Government.

3 THE CHAIRMAN: In item 3, I was wondering
4 what evidence you might have, if any, that there are a
5 number of people escaping the net because the Department
6 doesn't make sufficient exertion to bring them to task.
7 I don't see a great deal of evidence of people escaping.
8 There are a few cases every now and again where they
9 are charged in the Court. There are not very many. I
10 heard a certain amount of talk about people not paying
11 taxes, not very much. What evidence is there to support
12 this statement? Is there any?

13 MR. McLAUGHLIN: We have no evidence,
14 Mr. Chairman.

15 THE CHAIRMAN: When you say it is generally
16 believed by the taxpayers that many individuals in business
17 escape the taxation net -- I think when you say it is
18 generally believed by taxpayers, I think I am fairly
19 right in saying it is generally believed by yourselves.
20 Is that fair enough?

21 COMMISSIONER BEAUVAIS: If there was a
22 withholding tax on all dividends and registered coupons
23 do you think that would cure that to a certain extent?

24 MR. McLAUGHLIN: My suspicion is when that
25 paragraph was drafted that the thing we had in mind was
26 this -- we have no evidence of this, but there is a lot
27 of loose talk.

28 THE CHAIRMAN: A lot of what?

29 MR. McLAUGHLIN: Loose talk going around
30 to the effect that particularly in the case of small



1 businesses where you have a single owner or maybe two or
2 three owners that a great deal of personal expenses
3 are charged to the business. I am talking about the
4 type of thing where a contractor sends a team, group
5 of painters to redecorate his house and this is absorbed
6 by the business. That kind of thing -- it seems to
7 me this is what we had in mind particularly.

8 MR. MacNAUGHTON: One other phase might be
9 the disproportionment of the donations that appear in
10 Quebec as compared to other provinces in Canada and that
11 sort of thing.

12 THE CHAIRMAN: We have heard about that.
13 A suggestion was made to me by a gas station attendant
14 that a very large proportion of their sales are on
15 business credit cards and the people who take delivery
16 of their products are housewives. That I have heard
17 said. I suppose that is something.

18 MR. McLAUGHLIN: We have no evidence at all,
19 but I think it is largely what we have in mind. There
20 is talk largely in the public that a lot of small
21 businesses, particularly, are getting away with a lot.
22 The salaried employees naturally have to pay one hundred
23 cents on the dollar and that may tend to make people
24 cynical about taxes.

25 COMMISSIONER BEAUVAIS: You don't have in
26 mind dividends not reported?

27 MR. McLAUGHLIN: I don't think so, at least
28 not to my knowledge.

29 COMMISSIONER PERRY: They want to exempt
30 them from tax anyway.



1 MR. ROSS: There is already a reporting system
2 on dividends. It is already taken care of.

3 COMMISSIONER BEAUVAIS: Under \$100 I don't
4 think that dividends are reported, so there is a loophole
5 there.

6 COMMISSIONER GRANT: Although many companies
7 do report every dividend they pay.

8 MR. McLAUGHLIN: Moreso with mechanism
9 and automation because it is less costly to report
10 everything without excluding portions.

11 THE CHAIRMAN: Moving on to the next
12 paragraph, 5, I was struck and underlined the fact that
13 "very little equity exists at the present time". It
14 seems rather strong, doesn't it? One of the canons upon
15 which taxation should be based is upon equity.

16 "In all cases where there is some lack
17 "of clarity in the tax law it is considered
18 "that the use of greater equity would be
19 "most helpful" -- I have often thought when
20 there was a lack of clarity it was caused by greater
21 striving for equity in the writing of the law.

22 COMMISSIONER PERRY: Isn't this a rather
23 narrow legal context of the word? One goes outside
24 statute law in order to remove the hardship that it will
25 find in the statute.

26 MR. MacNAUGHTON: Or vice-versa.

27 COMMISSIONER PERRY: Or vice-versa, yes.
28 You are not damning the whole of the tax system as being
29 inequitable.

30 MR. McLAUGHLIN: Definitely not.



1 COMMISSIONER PERRY: What some people refer
2 to as discretion you are speaking of as equity here.
3 It is the use of non-statutory means of achieving fair
4 end.

5 THE CHAIRMAN: I think perhaps the meaning
6 which I got out of this, and please correct me if I am
7 wrong, is that the assessor is put in a position of having
8 to make up his own mind about things, his own interpretation
9 of the law in carrying out his assessment and the
10 suggestion is he should be governed in doing it by equity,
11 to put himself in the position of trying to make a fair
12 judgment rather than putting himself directly opposed
13 to the taxpayer, taking the extreme position from the
14 taxpayer. Is that what you have in mind?

15 MR. McLAUGHLIN: Very often the assessors
16 are inclined to take a most unrealistic attitude, they
17 throw the book at you on everything and there are
18 occasions where applying a less legalistic attitude
19 without damaging the national revenue might be more
20 appropriate.

21 THE CHAIRMAN: Yes, okay.

22 Now, at the bottom of the page in the same
23 situation you refer to the extent of discretion in
24 administration of Federal sales tax and you suggest it
25 would be desirable for those responsible for income
26 tax administration to adopt a similar approach toward
27 the use of discretion. I suppose if the law were changed
28 to give them more discretion -- the Federal sales tax
29 operates very very largely as a matter of discretion. Many
30 people think it goes much too far in that direction because



1 discounts are largely settled on discretionary basis,
2 almost the discretion of setting of the rate of tax.
3 Now, would you think that the income tax administration
4 would be improved if there were provision for the use
5 of discretion, that is more reference to discretion in
6 law?

7 MR. McLAUGHLIN: Mr. Chairman, I don't
8 think this is what we have in mind. We don't have in
9 mind to recommend ministerial discretion in income
10 tax. We feel assessors might take a more common sense
11 attitude in interpreting the law rather than always
12 taking the extremely legal attitude.

13 THE CHAIRMAN: Thank you. Anything else
14 on that? Then, paragraph 6 contains an interesting
15 suggestion, the use of a Committee of the three Departments
16 concerned. I had the idea that within the Government
17 these three Departments came together, I am not sure
18 whether as a formal Committee, but certainly when laws
19 are being drafted I know they come together and discuss
20 proposed laws. Mr. Perry would know far more about
21 this than I and might like to discuss it.

22 COMMISSIONER WALLS: Could I interrupt: is
23 what ~~th~~^{you} gentlemen are asking, ~~is~~^{is} not to meet before
24 the budget is drafted but ^{to} /interpret the budget after
25 it is drafted? Am I not right? Is that not what you
26 are asking for this Committee to do?

27 THE CHAIRMAN: They are asking quite a few
28 things.

29 COMMISSIONER PERRY: Except for the public
30 participation, the discussion with the people from the



1 public this process goes on now, both before and after
2 the budget. The new things that is suggested here is
3 that the people involved from the business community
4 be invited to join that discussion.

5 MR. EWENS: I think this is essentially the
6 suggestion.

7 MR. MacNAUGHTON: I think a very good example
8 was this budget of June 13th. The number of outcries
9 that came out afterwards and as a result of comments in
10 the newspapers and from various groups certain changes
11 were made. This could probably be done in a less
12 embarrassing way if there were some method of proceeding,
13 handling this on a public basis before this is set in
14 a final firm form.

15 COMMISSIONER WALLS: You are asking that
16 these people come before the Committee after the budget
17 has been studied in the House. Is that not what happened
18 actually this spring? They weren't asked to come in
19 but they came in and accomplished exactly the same thing.

20 MR. MacNAUGHTON: I think we had in mind
21 before.

22 THE CHAIRMAN: I thought you did. I wasn't
23 sure of that.

24 MR. EWENS: I believe our initial brief could
25 be read as the Committee coming together after, but I
26 think in our supplementary submission we say as a matter
27 of preference it should be before. We also had in mind
28 too that frequently the representations that are made
29 to the existing form of Committee are made by pure
30 tax specialists, professional groups et cetera and very



1 often the impact of tax changes are felt not really by
2 the tax specialists but by the businessmen and sometimes
3 the businessman doesn't get an opportunity to say how
4 he feels about the changes.

5 COMMISSIONER BEAUVAIS: You have the
6 Chamber of Commerce and you have the Canadian Manufacturers'
7 Association and they represent the business community,
8 don't you think?

9 MR. MacNAUGHTON: Maybe we could comment
10 on that. They certainly have presented them, but if
11 past experience is any criterion the Government has
12 never read them.

13 THE CHAIRMAN: I served on these Committees
14 and I must say at times we have been rather pleased with
15 the success we had. Many times there have been public
16 reports on the fact that a fair degree of success has
17 been reached.

18 COMMISSIONER PERRY: I have been both on
19 the receiving and issuing end. I have decided we spent
20 more time reading these things than the people did in
21 writing them.

22 THE CHAIRMAN: Why didn't the T.E.I. come
23 forward annually with their views? It would seem to me
24 that the combined experience of your organization would
25 be most welcome.

26 MR. MacNAUGHTON: I think there are several
27 reasons.

28 MR. McLAUGHLIN: One reason is it is beyond
29 the objective of our group to be involved in recommendations
30 to legislation. We specialize in tax administration and



1 our objectives are such that our interest in relationship
2 with Government officials is directly on good tax
3 administration and to make recommendations on legislation
4 we believe would be beyond the scope of our institute.

5 THE CHAIRMAN: Fair enough, but how about
6 administration? Wouldn't this Committee be pleased to
7 listen to recommendations on administration?

8 MR. McLAUGHLIN: If we were consulted we
9 would be pleased to offer advice.

10 THE CHAIRMAN: Who starts this?

11 MR. EWENS: We would agree we should be
12 more active in this area.

13 THE CHAIRMAN: I am encouraging you. I think
14 you have a lot to offer.

15 COMMISSIONER PERRY: What about tax changes,
16 changes such as the change in the sales tax on building
17 material? Could any business group that was consulted
18 in advance do anything except oppose, do its utmost,
19 privately and I am afraid eventually publicly, even
20 before the budget, to oppose?

21 MR. EWENS: You are probably right.

22 MR. MacNAUGHTON: I think it is a fair
23 thing -- they would oppose, but they might possibly be
24 able to clarify the application of it which was one of
25 the problems in this last situation where there are still
26 many, many areas where how the tax is going to be applied
27 is unsettled, and that is where we feel perhaps help
28 could be given rather than whether the tax should be
29 applied or not.

30 COMMISSIONER PERRY: The main trouble is people



1 don't like any chance made at all.

2 MR. MacNAUGHTON: I think it is natural.

3 COMMISSIONER PERRY: I have a feeling this
4 is what people consulted in advance of the budget are
5 going to think.

6 MR. DIEKMAN: Mr. Chairman, I think there
7 is a difference here between whether this Committee should
8 offer any opinion whether a given tax law should or should
9 not be imposed as against how the law should be
10 administered. I might offer here the fact that in the
11 United States at the suggestion of the Tax Executive
12 Institute the Commissioner of Inland Revenue -- Internal
13 Revenue, Mr. Mortimer Caplan, as had done his predecessor
14 formed a Taxation Committee consisted of -- I may not
15 be quite right in distribution, I know there are two
16 members of the Accountants' Association on it, two members
17 of the Bar Association and two members of the Tax
18 Executive Institute and they simply take any proposed
19 legislation and not from the point of view whether the
20 legislation is good or bad or whether it is desirable
21 or undesirable, but purely if this legislation came in
22 how would it be properly administered.

23 I might say I have made a proposal, the
24 same suggestion before the Minister of Finance, but he
25 didn't go for it.

26 COMMISSIONER WALLS: You are getting away
27 from the argument used a few minutes ago that the
28 Government wouldn't get the proper guidance from the
29 tax experts and what they want is to get it from small
30 business, not necessarily from small business, but from



1 businessmen themselves, and the effect it is going to
2 have on them, but the type of Committee you are talking
3 about in the United States, that is made up of ~~only~~
4 tax experts.

5 MR. DIEKMAN: No, I think not. It deals
6 purely in certain given pieces of legislation, how will
7 that affect the administration, how can this be
8 properly administered, how does the business go on in
9 the concept of this legislation. This is where we run
10 into great difficulties.

11 COMMISSIONER WALLS: Is your suggested
12 Committee here not rather on the effects it is going to
13 have rather than administration?

14 MR. DIEKMAN: Yes.

15 COMMISSIONER WALLS: If ~~there~~ is going to be
16 effective you have to bring in the people it is going
17 to effect who are going to be the businessmen themselves.

18 MR. DIEKMAN: I think . . .

19 THE CHAIRMAN: Your consumer or individual
20 taxpayer. What interests me, and I can see great merit
21 in your suggestion? I think everybody is groping for
22 something in this order. It has been indicated in
23 Parliament that there should be some means of communica-
24 tion, not what kind of means, but some means of
25 communication. This is one. Now, would your proposal
26 as to pre-budget representation discussions -- they
27 would be talked about in public or privately? I think
28 there is some significance to that.

29 MR. McLAUGHLIN: We visualize privately.

30 THE CHAIRMAN: You visualize what?



1 MR. McLAUGHLIN: Privately. We realize
2 budget secrecy is involved here.

3 THE CHAIRMAN: Not necessarily, depending
4 on how it is organized. If you are making representations
5 as could well be the case, and all other business
6 organizations -- they are carrying the initiative, there
7 is no reason why they wouldn't put their proposals public-
8 ly. I can't think of any. If the Government wants
9 to discuss these with them -- this Committee could
10 discuss it with them as we are now discussing the matter
11 publicly with you. If they want to go and ask their
12 advice on something they have dreamed up then that is
13 extremely difficult to do. That is a matter of budget
14 secrecy and how one changes that I don't know. There
15 are a lot of things that warrant budget secrecy. If
16 these are to be discussions of things initiated by the
17 taxpayer there is no reason for secrecy. I wouldn't
18 think that was so. Isn't that all part of the democratic
19 purpose. You have your conditions and your taxpayers
20 coming to discuss application of it with Government
21 policymakers. I wouldn't think it needed to be kept
22 secret.



1 That is partly a technical area and partly
2 discussing the effect of the proposals, I would think.
3 Again, you have people appearing before this Committee.

4 COMMISSIONER PERRY: How much time would you
5 devote to this sort of thing? You know what has
6 happened in Washington? They are still holding hearings
7 on the Bills that were introduced last May I believe.

8 MR. EWENS: This question of public and
9 private hearings is a subject we have not, as a group,
10 discussed in any detail, nor the timing. I guess we
11 all realize, timing would have to be put in certain
12 fairly restrictive limits. It couldn't go on for too
13 long. Perhaps a matter of weeks.

14 THE CHAIRMAN: These are some of the important
15 considerations, I think. It is a very different sort
16 of group that is going to meet behind closed doors
17 than it would be in public hearings. I don't think
18 there is anything more on 6. Seven. Now I thought
19 that the differences in corporation tax laws were pretty
20 well eliminated between the provinces and the Federal
21 Government. The last two years there has been a lot
22 less. I thought these have been pretty well eliminated.
23 Does it appear that differences are now creeping in
24 the corporation tax laws?

25 MR. McLAUGHLIN: I think Mr. Ewens has
26 something to say about that.

27 MR. EWENS: I believe that you are right, Mr.
28 Chairman, that the provinces generally have adopted
29 similar laws for the determination of taxable income,
30 with the exception of the Province of Quebec where there



1 remains some difference between the Federal and
2 Provincial basis for determining income.

3 THE CHAIRMAN: I was under the impression
4 that there did not remain any differences in the
5 Province of Quebec.

6 MR. EWENS: There are in some of the rules
7 applicable to the taxation of specific industries.

8 COMMISSIONER BEAUVAIS: Are there?

9 MR. EWENS: Yes.

10 COMMISSIONER BEAUVAIS: You mean the logging
11 industry, for instance?

12 MR. EWENS: I am speaking specifically in
13 connection with the oil industry.

14 COMMISSIONER BEAUVAIS: Most of the time
15 though, Quebec ---

16 MR. EWENS: Most of the rules are comparable.

17 COMMISSIONER PERRY: The big difficulty has
18 been overcome. You have this difference in the
19 basic concept in that the Federal people carve out foreign
20 income and divide up the pie that is left. Whereas, as
21 I remember, Ontario and Quebec tax foreign income and
22 allow tax credits.

23 THE CHAIRMAN: Paragraph 8.

24 COMMISSIONER WALLS: This is a recommendation
25 that we have had before us on several occasions.

26 COMMISSIONER PERRY: I wonder if you wouldn't
27 mind, just before we leave seven entirely, I think the
28 position at the present time is that the Federal
29 Government does stand open to collect the taxes of
30 any Provinces.



1 MR. EWENS: Yes.

2 COMMISSIONER PERRY: And if this offer is made,
3 what more can be done? In other words, it is prepared
4 to act as a single agency, which you recommend here?

5 MR. McLAUGHLIN: All we mean to do here is
6 emphasize the desirability of this.

7 COMMISSIONER PERRY: I am suggesting perhaps
8 it is the Provincial Government.

9 MR. MacNAUGHTON: Maybe we should send a copy
10 of our brief to the Provincial Government.

11 COMMISSIONER WALLS: Going on to this
12 paragraph 8, where you suggest that the sales tax be
13 moved forward from the manufacturers level to the
14 retail sales tax and it be combined with provincial
15 sales taxes and imposed under Federal legislation. In
16 other words, the Federal Government be the overall
17 collector of both taxes.

18 Now I wonder, while I sympathize with the fact
19 that it would remove considerable trouble and considerable
20 administration, I just wondered if it is being realistic
21 and I would like you to question me on the judgment that
22 I am going to give right now. First of all: We are
23 going to recognize that the provincial sales tax is the
24 most important single source of total provincial
25 revenue. In one province it is over 25 per cent today
26 of the revenue. In the lowest province it is over 10
27 per cent, and the average across Canada is 15 per cent
28 so the provinces are, quite rightly, coming to think
29 this is their particular tax preserve and I think that
30 they would be particularly loath to have that tax



1 added to.

2 In other words, it is a maximum of 5 per cent
3 today in the Provinces that collect the highest taxes.
4 It would have to be increased to at least 13 per cent
5 in order to bring in the same amount of revenue to the
6 equivalent of the 11 per cent manufacturers' tax, and I
7 think what you would run into would be opposition from
8 the Premiers of these provinces, and certainly from two
9 of them. That you would create an antagonism in the
10 consumer's mind in having to pay out a tax as large as
11 13 per cent, to the extent that the outcry would then
12 cause the opposition parties to go on a platform of
13 elimination of retail sales taxes, which would then
14 finish the use for both provincial and federal
15 governments of a retail sales tax where this is done
16 and where the consumer realizes exactly how much they
17 are paying out.

18 Now to what extent by my trying to look into
19 the future do you find that wrong?

20 Mr. McLAUGHLIN: First of all, I would like
21 to clarify one point. In our written answers to
22 questions that you have sent to us, we have fairly
23 elaborated on that by stating -- well we were asked
24 specifically whether we recommended Federal collection
25 or provincial collection of retail sales taxes and we
26 favoured, in our answers to your questions, provincial
27 collection.

28 COMMISSIONER WALLS: It wouldn't make much
29 difference who collects it. You will get this. I am
30 asking you does the fact that you are now going to rub



1 in peoples' noses, every time they make a purchase, that
2 somewhere in the neighbourhood of 13 to 15 per cent,
3 because the provinces ~~may even~~ want to enlarge that
4 source of revenue as they take on ~~other~~ ^{additional} social, welfare
5 and education ~~bosasse~~ ^{Some of} these taxes, you realize,
6 ~~the~~ provinces have been named for specific purposes;
7 only two provinces named it as a sales tax. Other
8 provinces have named it as an education tax, as a
9 social service tax. Some specific purpose. As these
10 purposes increase, they themselves may want to increase
11 the percentage of taxes that they collect. Now you add
12 to it.

13 You can envisage a consumer becoming riled at
14 the 15 per cent being added to everything that they
15 bought, and I can also envisage that opposition parties,
16 anxious to get on some bandwagon that will bring votes,
17 will make that as a party platform and, therefore, you
18 could finish up by it being voted out and producing
19 no revenue to either the provinces or the Federal
20 Government.

21 Now had you given any thought as an
22 alternative to this, the Federal taxes being moved up
23 to where it would be hidden? In other words, where it
24 would be on the invoice to the retailer rather than
25 combined on the price charged to the consumer?

26 MR. EWENS: I think we were looking specifically,
27 Mr. Walls, to the advantages in administrative savings
28 by having one combined law with one central group of
29 government acting as a collection agency.

30 THE CHAIRMAN: Shoot down Mr. Walls' balloon and



1 save us the trouble.

2 MR. DIEKMAN: I cannot quite follow, Mr. Walls,
3 why you would say the tax would have to be increased.
4 We were talking specifically about Federal Sales Taxes.

5 COMMISSIONER WALLS: No, most provinces right
6 now have a 5 per cent sales tax. The Federal 13 per cent
7 sales taxes on an average at the consumers level means
8 about 8 per cent. If the same tax is collected at
9 the retail level, that is 5 ^{which} plus 8% is 13% but that could
10 very easily be increased because the provinces, for
11 specific purposes, may have to increase the amount that
12 they require so it could be a total of 15 per cent.

13 MR. DIEKMAN: But wouldn't you perhaps agree
14 that the base cost, regardless of taxes on any given
15 item under the system we point out, the Federal and
16 Provincial sales taxes would be collected at the retail
17 point of sale or final point of delivery to the
18 consumer; that the base price would drop? In other
19 words, the 13 per cent would be collected on a lower
20 base than the provincial sales taxes are now collected.

21 COMMISSIONER WALLS: I am not disagreeing with
22 that. I am just pointing out the fact that knowing
23 the reaction of the consumer to having this rubbed in
24 their noses, because I am in a province where we have
25 a 5 per cent tax and where it is often protested
26 into you hear sarcastic remarks: "I suppose I have
27 got to fork out 5 percent for Mr. Bennett now". You
28 hear this all over. Even if it was 15 percent, you
29 can see where the Provincial Premiers would be very
30 loath to have this antagonism built up larger than it



1 is today.

2 MR. McLAUGHLIN: I think the answer to that,
3 Mr. Walls, is we have looked at that strictly from the
4 administrative point of view.

5 COMMISSIONER WALLS: Thank you.

6 MR. McLAUGHLIN: That it was administrative
7 point of view simply, and we have not given serious
8 thought to the other implications.

9 MR. EWENS: The other question is one of
10 political impact, I believe and we have not considered
11 this at all.

12 MR. WATSON: Surely, Mr. Walls, if the 13 per-
13 cent tax about which you talk were split 5 and 8 on
14 the invoice to the customer or to the consumer, he
15 knows 8 per cent is, therefore, the federal and the
16 provincial politicians could not use this as a lever
17 to have the income dollar removed.

18 COMMISSIONER WALLS: It wouldn't be a case
19 of an invoice. What you fear is that on the price tag
20 in the store it would have so much, plus 5 per cent for
21 the province and 8 per cent for the federal government.

22 MR. DIEKMAN: I would envisage, if a
23 consumer now pays a total of \$1.00, tax included, that
24 if a change were made he would still be paying \$1.00;
25 wouldn't be paying more than \$1.00.

26 THE CHAIRMAN: Be paying 85 cents and 15?

27 MR. DIEKMAN: Yes.

28 COMMISSIONER WALLS: I don't disagree with
29 that.

30 THE CHAIRMAN: Paragraph 9, you refer to lengthy



1 delays with regard to final corporate tax assessments.
2 I was inclined to think that the Department was doing
3 better all the time. Were getting their final
4 assessments out a little faster. Are you aware that
5 there are very substantial delays which should be
6 corrected? I take it you must be.

7 MR. EWENS: I guess our individual experiences
8 on this vary, Mr. Chairman. Personally I would say yes.
9 There are still lengthy delays.

10 MR. McLAUGHLIN: I would agree with the
11 Chairman's statement, that they are improving all the
12 time.

13 THE CHAIRMAN: You agree they are improving?

14 Mr. McLAUGHLIN: Yes.

15 THE CHAIRMAN: Is there anything that you can
16 think of that should be done specifically in this
17 connection? Is it a bad idea to have two sets of forms
18 going out, the interim assessment and final assessment?
19 I don't think they are called that.

20 MR. ROSS: It is a bit devious, isn't it to
21 issue an assessment that in reality is not an
22 assessment?

23 THE CHAIRMAN: Well then you do not like that
24 principle?

25 MR. ROSS: That is correct.

26 THE CHAIRMAN: The procedure would be improved
27 if they did not do that?

28 MR. ROSS: You would be fairer to the taxpayer,
29 the rules regarding notice of objection, and so on.

30 MR. EWENS: Although the first assessment does



1 serve a useful purpose of being the starting date for
2 the four year period of limitation.

3 THE CHAIRMAN: So that it does work to that
4 extent in the taxpayer's favour, doesn't it?

5 MR. EWENS: Yes.

6 THE CHAIRMAN: Perhaps then it is a good system
7 and they are just using the wrong form. They are
8 not calling it by the proper name; giving it an improper
9 name and it should be called something else.

10 MR. WATSON: It is just, really, a notice of
11 receipt of the T-2 and the tax schedules.

12 THE CHAIRMAN: I think that is probably all it
13 is. And should the four years start from the date of
14 the notice of receipt of the tax form?

15 MR. McLAUGHLIN: It should, I think, because
16 -- it should start from the time of filing, as a matter
17 of fact.

18 THE CHAIRMAN: Isn't that what the recommendation
19 should be then, that there should be two forms, one
20 being a receipt for the document sent in and the other
21 certain things which operate from the date of that first
22 form.

23 MR. McLAUGHLIN: Yes.

24 THE CHAIRMAN: Now in 10 I was somewhat
25 puzzled as to what these fringe benefits might be which
26 would be fairer to leave out of taxable income. Perhaps
27 not fairer, but might be preferable treatment
28 having regard to all matters referred to in your
29 paragraph 10. What kind of things are you suggesting
30 which are fringe benefits and which the Department is



1 trying to bring into the tax which might be better
2 left out?

3 MR. McLAUGHLIN: The first one that comes
4 easily to my mind is to have added to the income of
5 the employee the benefit he receives from the excess --
6 group life insurance coverage, that is the group life
7 insurance coverage in excess of \$25,000.00. I think
8 the experience of the group here has been in our
9 respective firms there is a completely disproportionate
10 amount of clerical work and effort to produce an
11 insignificant amount to add back to the taxable income
12 of the employees.

13 This is one example that comes easily to mind.
14 I believe Mr. Ewens has a few more at hand.

15
16 --

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18 --

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1 COMMISSIONER PERRY: Hasn't this problem been
2 removed in the current Income Tax Bill?

3 MR. McLAUGHLIN: No.

4 COMMISSIONER BEAUVAIS: It has been advised
5 anyway. I know in my company they said, don't bother
6 because it is insignificant, even if the amount is a
7 \$40,000.00 issue.

8 MR. McLAUGHLIN: As far as I know it has
9 been applied and the amount of work that we have in our
10 firm to produce it is absolutely out of proportion with
11 what we have to report. We have to report a few
12 dollars.

13 COMMISSIONER PERRY: What have they done in
14 this Bill? I haven't seen that provision for a while.
15 Haven't they removed the \$25,000.00 limit?

16 MR. McLAUGHLIN: No, in the current Bill before
17 the House the only changes is it changes the reference
18 to group life insurance to group term-life insurance.

19 COMMISSIONER WALLS: To what extent do firms
20 such as yours, in order to create a benefit that is non-
21 taxable start to give non-taxable fringe benefits?
22 Is it going within organizations -- I am thinking of
23 such things as supplying a car when a man really has
24 little use for business purposes but uses it mostly for
25 pleasure. I am thinking of supplying of fishing camps.
26 I could think of many things I have heard of as being
27 given today as a means to increase fringe benefits
28 without taxation.

29 THE CHAIRMAN: I am thinking of meal tickets
30 which I said are a dirty trick. They are giving them



1 so as to avoid the tax. Not one but many companies
2 are doing that. I know an organization endeavouring to
3 establish itself in Canada for the purpose of dealing
4 in meal tickets, persuading restaurants to accept their
5 tickets and going to manufacturers to say please accept
6 them and give to the employees, a tax free way of
7 additional remuneration. Do many of these kind of
8 things occur?

9 MR. McLAUGHLIN: Speaking for myself, Mr.
10 Chairman, I am not familiar with what you just said.
11 Certainly in my firm we wouldn't try to introduce a
12 fringe benefit solely for tax rebate. It would be based
13 on business reasons. If it so happened it did form a
14 tax rebate, so much the better for the employer. That
15 wouldn't be a guiding factor. Mr. Walls referred to
16 the fact of using a car -- in our company we go so far
17 as charging the employee so much per mile that he
18 covers with a car on personal business, and he has to
19 fill in a report which is checked by a supervisor and
20 he has to pay for it if he uses the car for personal
21 reasons. I must say we have instituted this system in
22 order to avoid any arguments with the Tax Department,
23 to be in the clear.

24 MR. WATSON: I think, referring to Mr.
25 McLaughlin's remarks, we represent fairly large and
26 respectable firms, I hope, and we can't afford to try
27 any gimmicks like this. Even our most highly paid
28 employees have to be subject to the same rules of thumb
29 as the lower echelon.

30 COMMISSIONER BEAUVAIS: I share your opinion



1 that the expense of insurance is particularly annoying
2 and you have to fill out a lot of documents in
3 calculations and so forth for a very, very limited
4 amount to be paid in tax. I think it makes sense.

5 MR. EWENS: We don't know what the solution
6 to this problem is because you certainly don't want to
7 have the tax laws so that all normal tax benefits are
8 exempt because this would be a temptation to many
9 taxpayers.

10 We have only come to the conclusion for at
11 least minor items, that they either be exempt or
12 treated in some other way -- it is a small nuisance
13 item that bother small corporations. We have inserted
14 in our supplementary brief another example of the
15 impact of taxation on fringe benefits on corporate
16 sales programs for employees where an employee on a
17 quota basis is offered an opportunity of getting a
18 small merchandise prize of some kind, the impact on
19 the success of the policy if after handing a prize to
20 an employee he has to hand a certain number of dollars
21 of cash to the federal government, and this is
22 particularly true when he happens to already own the
23 particular piece of merchandise that he was handed,
24 is poor.

25 THE CHAIRMAN: Can you think of how to frame
26 a section of the Act that would except such prizes
27 from tax?

28 MR. EWENS: An exemption of even \$100.00 or
29 something like that, that would help lots. It is
30 merely a nuisance item that gets caught here. It would



1 go a long way to helping with the problem of insurance
2 -- as Mr. McLaughlin said.

3 THE CHAIRMAN: \$100.00 tax free income would
4 be colossal, a very large amount.

5 MR. ROSS: In terms of non-cash goods only.

6 COMMISSIONER PERRY: Perhaps they could deem the
7 standard deduction would have covered such things.

8 THE CHAIRMAN: I certainly think you have a
9 point with regard to the group life coverage and
10 maybe with regard to other matters.

11 The Commission may consider the merits of
12 introducing some form of capital gains tax in Canada --
13 paragraph 11 if you think of the administration cost
14 associated with long or short term capital gains it
15 may far outweigh the value of any additional revenue
16 that may be derived by government. Would you not
17 distinguish in any way between long and short term
18 capital gains? I have always been a little concerned
19 as to what one means by capital gains. I think when
20 you say short term capital gains you mean speculative
21 profits, speculation and things one generally
22 considers to be capital assets such as properties or
23 securities. I don't know to what extent these
24 speculators are not being brought into tax, but I
25 assume they are not. If I dabbled in the stock market
26 I wouldn't pay taxes as a result of that. Perhaps
27 I shouldn't. I am not very sure, but I am rather
28 inclined to think I should.

29 MR. ROSS: If it is decided you should, Mr.
30 Chairman, you obviously must be allowed your losses in



1 the same manner.

2 THE CHAIRMAN: That is what I was thinking.
3 That would be worthwhile.

4 MR. EWENS: You would still have the basic
5 problem of what does constitute income and what
6 constitutes capital gains.

7 MR. McLAUGHLIN: Unless you have rules to
8 make a distinction on the basis of time.

9 COMMISSIONER WALLS: You didn't give
10 consideration to the British plan of stocks turned over
11 within six months and real property turned over within
12 two years.

13 THE CHAIRMAN: Most other countries do state
14 that they tax speculative profits. Some taxed as
15 capital gains, but all the ones I can think of claim they
16 tax speculative profits and they generally have rules
17 of some kind such as the English recently introduced.
18 Most European countries have rules, but the
19 enforcement of them varies very greatly. I haven't
20 heard of anybody yet coming out and saying short term
21 capital gains should not be taxed. This is what
22 attracted my attention. I am rather surprised in that
23 short term capital gain is really speculative profits
24 and most people would believe they should be taxed,
25 that the speculator should not get off tax free. I
26 don't know if you wish to discuss administrative
27 taxation. I don't think so. I hope the Department
28 of National Revenue sees your very kind remarks in that
29 paragraph numbered 13. The Department merits that comment.
30 Is there anything else?



1 COMMISSIONER GRANT: Before concluding I would
2 like to ask you about your suggestion in paragraph 1
3 of the supplementary brief where you advocate that the
4 Income Tax Act and the regulations should be divided
5 into two parts, one for the individual and one for
6 the corporation. I should think you mean by that
7 that should be separate and distinct, that would be
8 complete in itself and there wouldn't be any reference
9 from one to the other for the purposes of the
10 administration of the Act.

11 MR. EWENS: It might be difficult to go that
12 far, Mr. Grant, because, perhaps capital cost allowance,
13 things of that kind would have to overlap and apply to
14 both.

15 COMMISSIONER GRANT: Is it your considered
16 opinion that there should be definitions in the Act
17 because the Income Tax Act at the present is perhaps
18 unique in regard to a lot of the statutes as there is no
19 definition section.

20 MR. EWENS: There is an Interpretation
21 Section.

22 COMMISSIONER GRANT: Oh yes?

23 MR. EWENS: Which I suppose is in part at
24 least a definition section in that it does indicate the
25 meaning attached to a number of words and phrases used
26 throughout the Department.

27 THE CHAIRMAN: Section 139, page 217.

28 COMMISSIONER GRANT: Yes, there is an
29 interpretation section. I was looking under Definition,
30 but the interpretation is undoubtedly meant to take the



1 place of that. That might be extended, in your
2 opinion?

3 MR. EWENS: Yes.

4 COMMISSIONER PERRY: I must say this idea of
5 two statutes was thought of at the time of the revision
6 and the draftsmen decided there were so many sections
7 which were common that by the time you got that sorted
8 out you would have almost duplicate statutes and never
9 be quite sure whether you had everything covered in
10 your situation unless you looked at the other statute.

11 MR. McLAUGHLIN: If we were to eliminate
12 the double taxation on corporation income there would be
13 no point in having two statutes.

14 COMMISSIONER PERRY: Not only that, but the in-
15 dividual ⁱⁿ business is taxed on the individual rules --
16 is taxed on individual rates but has applied to him
17 all the rules of calculating business income and
18 therefore he in a sense straddles the two. He is
19 neither a corporation nor an individual. You would
20 almost have to have a third statute to cover him which
21 would be a combination of both the other two.

22 THE CHAIRMAN: I am never quite sure whether
23 division should be between the individual and the
24 corporation or between people in business and people
25 who are not in business. Mr. McLaughlin even if you
26 did get away from corporation tax as such you still
27 have to measure corporation income and have a lot of
28 rules.

29 MR. McLAUGHLIN: What I mean is that I believe
30 that this suggestion of having two separate statutes



1 no longer holds if you eliminate double taxation on
2 corporations.

3 THE CHAIRMAN: Perhaps. I am not sure of that.

4 MR. McLAUGHLIN: Well, largely, let us say.

5 MR. EWENS: I think ~~there remains~~ ~~the~~ ~~thought~~ ~~in~~ the
6 supplementary portion of our submission here ~~is~~ ~~the~~
7 Income Tax Act is confusing and uncertain even to those
8 who are spending a good part of their time dealing with
9 that and to the smaller corporations who don't have
10 permanent specialists on their staff it is a difficult
11 job for them to determine the application of the tax
12 to their company.

13 COMMISSIONER GRANT: In any case whether
14 it is divided or not, you are all for simplification.

15 THE CHAIRMAN: I suspect everybody is
16 throughout the world with regard to all forms of
17 taxation and we keep on saying this as taxes become
18 more complicated. I think we must keep on struggling.
19 I agree.

20 Well, it has been very helpful to us. Have
21 you any further questions? You have done a great deal
22 for us and we are very grateful to you. Of course we
23 will continue to examine what you have put before us
24 and it will be very useful to us when we come to our
25 recommendations. Thank you very much indeed.

26 MR. McLAUGHLIN: Thank you very much, Mr.
27 Chairman.

28 THE CHAIRMAN: We will stand over until tomorrow
29 morning at 9:30.

30 ---

